



## **FORTY YEARS AT THE BAR**









MR. EDWARD ABINGER

# FORTY YEARS AT THE BAR

BEING THE MEMOIRS OF  
EDWARD ABINGER  
BARRISTER OF THE INNER TEMPLE

WITH NUMEROUS ILLUSTRATIONS

SECOND IMPRESSION

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## LIST OF ILLUSTRATIONS

MR. EDWARD ABINGER	.	.	.	.	<i>Frontispiece</i>
					FACING PAGE
SIR FORREST FULTON	.	.	.	.	16
SIR THOMAS CHAMBERS	.	.	.	.	16
LORD DARLING .	.	.	.	.	32
SIR PETER EDLIN	.	.	.	.	48
LORD CARSON .	.	.	.	.	80
LORD BRAMPTON	.	.	.	.	88
MR. JUSTICE R. S. WRIGHT	.	.	.	.	104
MR. FRANK LOCKWOOD, Q.C.	.	.	.	.	112
LORD COCKBURN	.	.	.	.	120
SIR HENRY DICKENS .	.	.	.	.	144
HARRY BENSON	.	.	.	.	156
LORD HALSBURY	.	.	.	.	160
LORD RUSSELL OF KILLOWEN	.	.	.	.	168
MR. JUSTICE GRANTHAM	.	.	.	.	172
LORD COZENS-HARDY .	.	.	.	.	184
SIR CHARLES GILL	.	.	.	.	192
MR. ALFRED COCK, Q.C.	.	.	.	.	208
SIR HARRY POLAND	.	.	.	.	216
SIR EDWARD CLARKE .	.	.	.	.	220
LORD HENN-COLLINS	.	.	.	.	232
LORD DESART .	.	.	.	.	240
SIR CHARLES MATHEWS	.	.	.	.	240
LORD ALVERSTONE	.	.	.	.	244
MR. MONTAGU WILLIAMS	.	.	.	.	252
LORD COLERIDGE	.	.	.	.	264



# Forty Years at the Bar

## CHAPTER I

**T**HE only apology I can make for writing these Reminiscences is that I have been urged by many friends in view of the fact that I have now nearly attained the threescore years and ten usually allotted to man and almost the end of my career, and it were a pity that no record should be made of my forty years' experience at the Bar, some of the cases I have appeared in, and some of the distinguished persons I have had the good fortune to meet.

To all intents and purposes the law was in my blood. My father and my grandfather were both solicitors well known in London. My father, S. B. Abrahams, practised in London for forty years, and my grandfather, S. Abrahams, for sixty years. I have still in my possession a silver plaque presented to my grandfather in 1824 "as a mark of respect for his admired conduct in his position as President (I presume of his Lodge) during the preceding year."

I was born in the year 1859 at 27 Bloomsbury Square, which was then a residential neighbourhood with fine gardens. It was in this Square that the great Lord Mansfield resided for many years. My late mother, with mistaken kindness, when her six children

## FORTY YEARS AT THE BAR

were all infants, induced my father to change their surname to Abinger, with the desire, I should imagine, that they should not be labelled by name as of the Jewish persuasion and so perhaps be handicapped in life. I once asked my father what the meaning of this change of name was, and he told me that it was my mother's wish and not his. He personally practised in the name of Abrahams until his death in 1886, the year before I was called to the Bar.

This misguided course was thus adopted in my infancy without my being in the least consulted in the matter, with the result that I have never signed any other name than Abinger at school, college or in after life.

I have been a great sufferer through this change of name. During the whole of my professional career I have always been a conforming Jew and take a pride in my religion. I have lost no opportunity of proclaiming it in court and out of it. I have the greatest contempt for apostates who without conviction change their faith and their name to a name less Hebraic in character so as to conceal their Semitic origin.

I had a somewhat fierce duel over this matter shortly after my call to the Bar with the late greatly lamented Sir Edward Marshall Hall, K.C. I was appearing for a Jewish client and Marshall Hall made a rather virulent attack upon him, the plaintiff, and in particular upon his witnesses, and said "they were Jews and should not be believed." This observation nettled me beyond endurance and in addressing the jury, I remarked :

"Before dealing with the facts of the case, I have a piece of advice to tender to my learned friend, namely,

## FORTY YEARS AT THE BAR

that he should take a first-class ticket to St. Petersburg and that he should practice in the Russian courts and his speciality should be making violent attacks upon the Jews ! ”

Marshall Hall said he had not attacked the Jews, but the Judge roundly contradicted him, and I got a verdict. In the robing-room Marshall Hall came up to me and, in a delightfully kind manner, said :

“ My dear Abinger, I had quite forgotten that you yourself were a member of that very ancient faith.”

“ I accept what you say,” I replied, smiling and quite mollified, “ but I bear upon my countenance (pointing to my nose) the signs of a race nearly six thousand years old, and it is really difficult to imagine you should have missed so conspicuous a feature ! ”

We remained the best of friends until his recent death, which I, along with many thousands of others, deeply deplore.

A year or two after being called I was briefed in a case at Tunbridge Wells. A benevolent clergyman of the Church of England had found a derelict chapel at Burwash, and at his own expense had converted it into a working-man’s club which became a complete success. It was afterwards discovered that in 1808 some kind person had presented the chapel “ for the worship of Almighty God by the sect known as Calvinist.” The trustees had long since died. Some gentlemen got themselves appointed trustees and brought an action against my client in ejectment.

I raised the defence that there was no longer any congregation or chapel in *England* which fell within the words of the demise. I devoted a good deal of



## FORTY YEARS AT THE BAR

reading to Nonconformity, and when the case was ready to be argued I had mastered the tenets of Calvin, Wesley, Baptists, Anabaptists, and Jensen.

The action was dismissed in the court below. The plaintiffs appealed to the Divisional Court, presided over by Lawrance J., then affectionately known and still remembered as "Long John." He asked me to explain the doctrines of Calvin, and I did so, laying special emphasis on the doctrine of preordination and predestination.

"What!" said the Judge, "do you mean to tell me that it is preordained which way we must decide this case?"

"Yes," I replied.

"We will see about that!" retorted his lordship.

I was subjected to a severe cross-examination by both judges on the subject of Calvinism and other forms of Nonconformity, and I was well able to deal with this cross-examination until at last, wishing to put an end to the matter, I asked their lordships if they would be good enough to put some questions to me about my own faith, in which I was much better versed. This frank avowal seemed to meet with approval; the questioning ceased, and the appeal was dismissed with costs.

I was educated in an erratic manner, firstly at a Jewish school kept by the Rev. A. P. Mendez, long since deceased, where I met Rufus Isaacs, now the Marquess of Reading, and his brother Harry.

Rufus was a strikingly handsome boy, very bright and intelligent, very good-natured, and marvellously

## FORTY YEARS AT THE BAR

healthy. His mother was a beautiful and highly accomplished lady, and I have little doubt that it was from her that he inherited the wonderful gifts which are familiar now to the whole world.

At the end of each term there was a play, and in view of my career and that of Rufus Isaacs, it is with great pain I have to admit I was then elected to the principal character whilst Rufus had the second important rôle !

Thence I was sent to University College School, where I met that extremely popular police magistrate, I. Symmons, now unfortunately no longer with us. He was one of the most delightful and amusing characters I have met in my life, full of humour, good-natured, and very skilful in advocacy. He always wore an eyeglass without a cord, and I never knew it fall out of his eye even in the midst of an exciting speech to a jury. I met him once in the Strand walking towards the Temple with his elbows well stuck out and swinging himself along in the most important manner.

“Symmons,” I said to him, “does this street belong to you ?”

Rising to my quip, he replied : “ This side only ! ”

At our mess dinners he used to pin a large number of table napkins round himself and perform a ballet dance to the great delight of such of Her Majesty's judges, magistrates, and others who were our guests.

I was afterwards sent, through the influence of my mother, who was a strong believer that the knowledge of languages constituted a great asset in life, to the College St. Barbe, Panthéon, Paris, where I remained some two years and a half. Of course, I learned to

## FORTY YEARS AT THE BAR

speak French with a Parisian accent and made many friends, some of them still living. I loved the old "Quartier Latin," the "Bohemia" which then obtained, and my fellow French students. Alas ! this piece of old Paris has now entirely disappeared, and is largely replaced by the Boulevard St. Michel, or the "Boule Miche" as the Parisians call it. The "Colonne Vendôme," destroyed during the Commune in 1871, was still lying broken on the ground when I first went to Paris.

Continuing my education, I went to the University town of Jena, in Thuringen, Germany. I was the only English student there, and used to be known as "der verdammte Engländer."

I would never take part in the then barbarous system of friendly duelling. The swords used were as sharp as a razor and not much broader than one, the arm tightly bandaged from the armpit to the wrist, a silken cap on the head and iron spectacles to protect the eyes. In spite of the restricted movements the duellists were enabled to inflict such deep cuts upon the face that I myself have seen a student put his tongue through his cheek. I once asked one of them what was the reason for this friendly mutilation, and he replied :

"Die Poesie der Jugend."

One of the ordeals through which a freshman had to pass was the drinking of twelve Zeitel (a large porcelain mug with a pewter lid) whilst the clock was striking twelve. After a great deal of practice I succeeded in swallowing eight, but never succeeded in getting a full dozen down.

We used to go to the town of Lichtenstein on

## FORTY YEARS AT THE BAR

horseback to drink a delightful light beer brewed and sold there. One freezing night in the depth of winter, the ground being thickly covered with snow, an intense feeling of somnolence overtook me. I dismounted, and lying down soon fell asleep, and but for the fact that some of my companions missed me and returned to find me, I doubt whether these Reminiscences would have ever been written.

I remained at Jena two and a half years and became, of course, quite proficient in the language.

I read some law, imbibed a little philosophy, studied the classics and Italian, and came back to London a fairly proficient linguist.

I must say, in passing, that in those days this may have been considered an accomplishment. But nowadays the man who shaves you and the waiter who waits upon you can not infrequently speak five languages.

In only two cases has this "accomplishment" been of any practical use to me at the Bar. I undertook a case before the late FitzJames Stephen where all the witnesses and the prisoner were German. The Judge himself was a fine German scholar and the whole case was conducted in that language, the evidence afterwards being interpreted to the jury.

The other instance was before the same Judge—a murder trial in which all the witnesses and the prisoner were French. I obtained the leave of the Judge to examine and cross-examine the witnesses in French, an interpreter afterwards interpreting the evidence to the jury. This trial I will deal with later on. I only introduce it here as demonstrating that

## FORTY YEARS AT THE BAR

a "double first" or a high position in a mathematical tripos is a much finer equipment for a young barrister than being a linguist.

One great advantage I did derive in Paris and Jena was a thorough knowledge of music. I can remember one hot August day holding my hands in cold flowing water until I was called before the professors to play the famous minuet of Baccherini, which was the test piece selected. Music has afforded me the greatest pleasure during the whole of my life. I had a fair voice, now, alas! the worse for wear, but which I used to find very useful at Bar mess dinners and at Primrose League meetings. I have not infrequently been told that my songs were better than my speeches! I still daily play the piano or the organ, and have written some unambitious pieces for the former and "fugues" for the latter.

Anyhow, the time came when necessity compelled me to think about making my own way in life. Born and bred as I was in the atmosphere of the law, it was only natural that I should choose the Bar for my profession. I joined the Inner Temple as a student in the year 1883, and was quickly initiated into the Victorian discipline which then obtained. My dinner companions were frequently Alfred Harmsworth, afterwards Lord Northcliffe, and Cosmo Lang, now Archbishop of Canterbury, who was eating his dinners at the same time. I there met my brother-in-law, H. J. Turrell, Recorder of Banbury.

One night whilst dining in Hall I happened to be wearing a white waistcoat. To my dismay I was informed by a waiter, or "panyer" as they were called, that the Treasurer desired me to go at once

## FORTY YEARS AT THE BAR

to the Bench table. I had to run the gauntlet of walking the whole length of the Hall facing some hundreds of students and the barristers' table. I stood respectfully at attention before the Treasurer.

"I believe," said he, "that you only recently started eating your dinners, and I want you to understand that your attire is most unbecoming. Students, and indeed barristers, should dress themselves in the most sombre and unassuming manner. Your white waistcoat is a direct violation of the best traditions of the Inn. Do not let it happen again."

I humbly bowed my acknowledgments and went back to my seat, greeted by students on all sides in stage whispers :

"What did he say to you ? "

I warned them not to wear white waistcoats.

Alfred Harmsworth was a strikingly handsome young man with the face and figure of a Greek god, brilliant in his conversation and always in a good temper. We used to play threepenny points at whist after dinner in the Temple. Harmsworth was then earning a scanty livelihood by writing "Answers to Correspondents" for the late Sir George Newnes of *Tit Bits*, and also in the *Illustrated London News* for the late Sir William Ingram, then owner or part proprietor of that newspaper.

He was extraordinarily facile with his pen, even in those early days. One evening he announced his intention of starting a newspaper on his own account and calling it *Answers to Correspondents*. I remember remarking to him :

"Do you suppose that any newspaper boy will call out such a long name as that ? "

## FORTY YEARS AT THE BAR

“ Well, then,” was Harmsworth’s reply, “ he can call it *Answers*.”

He wrote practically the whole of the first number himself, and it was a brilliant success *ab initio*, and proved to be the foundation-stone of his subsequent wonderful career in after life. As a matter of fact, Harmsworth was never called to the Bar, as I think he came to the conclusion that journalism was his proper mission in life, and very wisely, as his subsequent meteoric rise to fame showed.

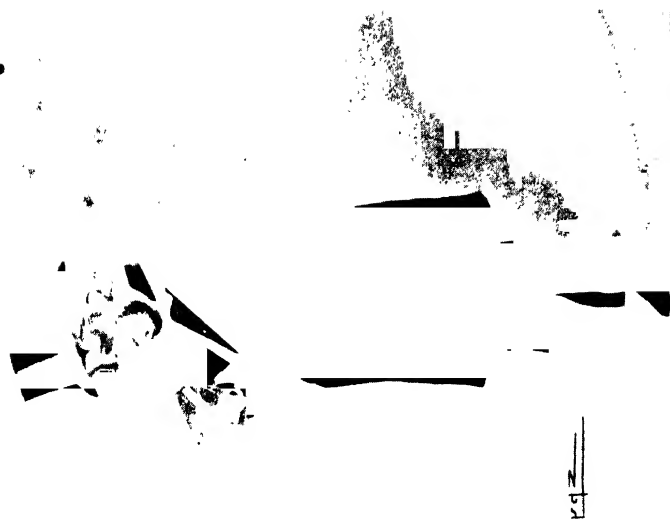
I knew Harmsworth’s father very well indeed. He was a practising barrister until he died, and a prominent member of the then Middlesex Sessions. He was a dear old Bohemian gentleman, immensely popular with everybody, and told us any amount of most delightful stories.

I have no doubt that Alfred inherited much of his journalistic ability from his father’s great power in describing and narrating in the most charming manner topical matters and the various experiences of his life. Steyn, afterwards the President of the Orange Free State, also ate his dinners contemporaneously with myself.

I was called to the Bar in the year 1887. My father, as I have already said, unfortunately for me, had died the preceding year and never lived to see me in robes.

I became a member of the Middlesex Sessions, of the Central Criminal Court, and the South-Eastern Circuit.

The then Chairman of the Middlesex Sessions was Sir Peter Edlin, a very remarkable personality, who could not have been much more than five feet in



SIR THOMAS CHAMBERS



SIR FORREST FULTON





## FORTY YEARS AT THE BAR

height, with an enormous head, a fierce voice and manner, but a kind heart.

I remember once the late Sir Charles Gill saying to him :

“ Has it ever entered your lordship’s mind that a man can stand in that dock and be innocent ? ”

He was immediately waved down with both arms by the Judge, a habit in which he frequently indulged. We used to call him “ Edlin and his twelve costermongers.” He was very pompous in manner, and a familiar expression of his was, if one dared to open one’s mouth : “ Will the learned counsel allow me to get as far as comma ? ”

I am afraid I used to wilfully provoke the old gentleman so much that he would spitefully say : “ Now, Mr. Abrahams, will you kindly address the jury ? ”

I naturally did not rise, and the Judge would then repeat : “ Mr. Abrahams, will you kindly address the jury ? ”

I then remarked : “ A very fine patriarchal name, my lord, but not mine. Are you referring to me ? ”

“ I beg your pardon,” said the Judge, “ Mr. Abinger ! ”

The Sessions house was an extremely dirty and inconvenient building. To reach the robing-room one had to climb up a winding narrow staircase. The court was a small squalid chamber, also remarkable for its dirtiness. The only interesting thing about the place which I can remember were the actual irons which Jack Sheppard, the notorious highwayman, was wearing when he escaped from Newgate.

## FORTY YEARS AT THE BAR

Prisoners were locked up in the old-fashioned "Black Maria," taken to the court, and incarcerated in the noisome and unwholesome cells, underground and cheerless, whilst awaiting trial.

In those days it was considered quite correct, from the point of view of etiquette, for counsel to receive instructions from the prisoner's friends without the intervention of a solicitor at all. I have myself seen the late Purcell with as many as twenty or even perhaps thirty "I.P.'s" ("In Person"), and that extremely brilliant Irish advocate the late Gerald Geoghegan with as many.

Other afterwards notable men who practised at these Sessions were the late Richard Muir, Marshall Hall, and Travers Humphreys who, like myself, were serving their apprenticeship in the law.

More prominent at the time were Charles Gill, Forrest Fulton, afterwards Recorder of London, and Charles Mathews.

After Sir Peter Edlin had left the Bench the appointment was offered to Forrest Fulton, and I said to him, walking to the Sessions one day :

"You can have Edlin's job for the asking of it."

To which Fulton replied : "Do you think I am going to pass the rest of my days in trying petty larcenies ?"

He refused it and rightly so, as of course he afterwards was appointed to the infinitely more valuable and important position of Recorder of London, which office he held for over thirty years.

When Fulton was elected a Member of Parliament, by universal vote he was considered the best looking man of his day. He became very popular in the

## FORTY YEARS AT THE BAR

House, and seconded the Address on the King's Speech.

I was present when he made his farewell address to the Bar. With great pathos he said :

“ My one consolation is that no longer shall I have to send my fellow-creatures to prison.”

He was a most popular judge, and erred, if at all, on the side of mercy.

My earliest impressions of the Old Bailey were not at all favourable to it. The courts were old, dilapidated, and uncomfortable. The first court was badly lighted with huge candles which, if the Court sat very late, would burn down to the sockets and have to be replaced. The building was so badly constructed that it was quite usual to hear in one court a counsel haranguing the jury at the top of his voice in another.

There were four courts. The largest, where one of Her Majesty's judges presided, had a large wooden glass-panelled dock, so high from the ground that one had to stand on tiptoe to speak to the prisoner. In protracted murder trials the poor wretch in the dock would hear the verdict of the jury, and the sentence of death from the Judge, in a court where the candles had almost burned down to their sockets or in the dim light of gas brackets.

I myself was concerned in a great murder case before Mr. Justice Grantham in which sentence was passed on the prisoner after twelve and a half hours' continuous sitting, at nearly one o'clock in the morning.

The Recorder at that time was Sir Thomas Chambers, a very able and popular gentleman. It

## FORTY YEARS AT THE BAR

was he who first gave me a word of encouragement. I was "devilling" a brief and addressed the jury in what I thought to be a most vigorous and forcible manner. To my dismay, the Recorder, in charging the jury, made such severe comments upon my advocacy, that I felt the tears slowly trickling down my cheeks. The Recorder, no doubt, noticed my distress, and at the conclusion of the case called me up to the Bench and said in the kindest manner :

"Don't distress yourself, if I had not thought that you were worth powder and shot, I would never have wasted ammunition upon you."

The Common Serjeant was Sir William Charley, a kindly and very good-natured man, perhaps not a great judge but a generous host.

Commissioner Kerr presided in the fourth court, a very small and inadequate chamber, more fit for a consultation room than a Court of Justice. I used to enjoy his dry Scotch humour and rich dialect, and face the dreadful atmosphere of this room so as to hear him.

I do not think he was happy at the Old Bailey, but preferred the City of London Court, of which he was the Judge. It gave him much greater scope for his witty sarcasm which most of us feared. He made short cuts, but administered substantial justice.

All these judges have long since passed away, but I still think of them with affectionate regard, practising before them as I did in my youth. The mere recollection of them with pleasure throws my memory back for over forty years.

The Bar in those days at the Old Bailey was a

## FORTY YEARS AT THE BAR

very strong one, Charles Gill being undoubtedly the most brilliant of all the men I knew. He was a man with no command of language or eloquence, but was endowed with enormous powers of persuasion and a very fine presence, which plays a considerable part in a lawyer's career.

Harry Poland was the leader of the Bar and Senior Counsel to the Treasury, having for his Junior Frederick Mead, who still presides as magistrate at the Great Marlborough Street Police Court

Charles Mathews, Forrest Fulton, Geoghegan, Charles Gill, and afterwards Richard Muir, were in all the big cases. Mathews and Geoghegan were the best defenders of prisoners. But the most brilliant defender was Gerald Geoghegan, to my mind the most gifted counsel in the criminal courts at that time, save only Montague Williams, who was compelled to retire from the Bar and accept a Police Magistracy on account of having had to undergo a serious operation to his throat.

Mathews was extremely dramatic in his advocacy and able to import such pathos into his speeches as to reduce the jury to tears, and I would confess that on more than one occasion I have been similarly affected.

He defended a case in which some poor young woman, deserted by her lover, penniless and homeless, in a fit of desperation took her babe and flung it from her into the Serpentine. The child was drowned and, of course, there was really no defence. Mathews made so brilliant and touching an appeal to the jury that they acquitted the woman without retiring from the Court.

## FORTY YEARS AT THE BAR

Poland, I remember, was extremely hygienic. He would never allow any smoking in the robing-room, calling it a beastly habit. His clerk used to produce a small brown loaf, a large pat of butter, and a jug of milk, which was all, in my forty years' knowledge of him, I ever saw him take for his lunch, with the result that he lived until he was close on a hundred years of age.

He possessed a great gift of handling complicated cases in the simplest manner, without showing the smallest animus against the prisoner, but deadly in his advocacy. Always unruffled, never raising his voice, and very courteous to the defending counsel, he was, in my judgment, the greatest prosecuting counsel ever employed by the Treasury. He used "the sword of a warrior and not the dagger of an assassin," which I think was the criterion of the perfect prosecutor laid down by the late Lord Chief Justice Cockburn.

Rufus Isaacs occasionally defended prisoners at the Old Bailey, and displayed the wonderful ability which characterised all his advocacy. Scrutton (now Lord Justice Scrutton) would appear only at the Old Bailey for the prosecution in commercial cases. I do not think he cared very much for the sordid atmosphere of the criminal courts. Charles Gill once told me that Scrutton excused his appearance at the Old Bailey to him, stating he would only appear in commercial cases there, which annoyed Gill so much, as he told me, that he read through the indictment in the case in question very carefully and got it quashed.

Most prominent amongst the judges was un-

## FORTY YEARS AT THE BAR

doubtedly the famous Sir Henry Hawkins, afterwards Lord Brampton. We used to describe him more or less affectionately as the "hanging judge."

The expression of his face when he was passing sentence of death was too dreadful for me to contemplate, and I used to walk out of court. He would take a deep breath, glare at the prisoner, keep him in suspense for a long time, administer a severe admonition, and then at last pass the dread sentence of the law.

Sir Edward Clarke, in his reminiscences published some time back, passed very severe strictures upon this judge as to his fairness. I do not propose to follow his example. Personally he was very kind to me.

Dining with him at the Bar mess at Maidstone Assizes, and being then blessed with a good voice, I took my courage in my hands and sang him the well-known song, "Mrs. 'Enery Hawkins," which he took in good part and seemed amused.

I defended before him a prisoner accused of picking pockets outside Canterbury Cathedral whilst a wedding was proceeding. The principal witness for the prosecution was a man in the bell tower, who was actually pulling the wedding peal. He said :

"I seed the prisoner put his hand in the lady's pocket. I seed him take out a green crocodile puss. I seed him throw the puss in the bushes, and I seed him put the money in his pocket."

I got up to cross-examine.

"Do you take your beer before the wedding peal or after ?"

"I am a teetotaller," was the reply.



## FORTY YEARS AT THE BAR

“That will not do,” said Hawkins, “try something else.”

“Do you profess that you can see from the heaven to the earth?” said I.

“There is no evidence that he was in the heavens; try another,” snapped Hawkins.

I had an inspiration and said: “Then you have the most remarkable eyesight?”

“Yus,” replied the witness, “I have.”

“Wonderful eyesight?”

“Wonderful,” said he.

I took up my brief, which was marked with the humble fee of five guineas, and said:

“You with the wonderful eyesight, just tell my lord and the jury what fee is marked on this brief.”

The man peered at the brief and strained his eyes to the utmost.

“Come as near as you like,” I urged, “come half across the court. Now, have a look.”

The man still gazed at the brief, but made no reply.

“Come nearer,” I said, until the witness was almost up to the benches reserved for counsel.

Then Hawkins came to his rescue. Turning to the witness he said: “Tell him his brief is marked with some hundreds!”

“My lord,” I remarked, “I asked him to tell the jury what my brief was *marked*, not what it *ought* to be marked,” which so pleased Hawkins that he summed up in my favour and the prisoner got off.

Hawkins had a curious habit. After he had retired from the Bench, and after his conversion to the Church of Rome, he used to go to Brompton

## FORTY YEARS AT THE BAR

Oratory and inspect the mausoleum which was afterwards to receive his mortal remains.

He seemed to revel in warm weather and heat. I remember one broiling August 1st (in those days the Law Courts did not rise until the "twelfth"), every window being shut and the perspiration pouring down my face. At last, I summed up courage and said to the Judge :

"Will your lordship allow a window to be opened ? "

"No," he replied brusquely, "go on with your cross-examination."

I proceeded with it as ordered, greatly distressed and nearly overcome by the heat, for some quarter of an hour, when the Judge said :

"Mr. Abinger, do you remember you asked just now if you might have the window open ? "

"Yes, my lord," I replied, "and I have reason to remember the way you answered my request," mopping my face.

"I will tell you why," he said. "Nobody compels you to remain here. You can go away as soon as you like. I am compelled to stop here, and therefore the temperature of the court must be left to my discretion."

I bowed my acknowledgments, and proceeded with my case in the temperature of the hot chamber of a Turkish bath.

## CHAPTER II

THE life of a lawyer practising in the criminal courts naturally brings one into contact with many strange people. It would be a mere redundancy on my part to remark that most of the folk who are arraigned at the Bar of Justice are the flotsam and jetsam of this workaday world, in other words the wrecks of humanity.

The story I am about to relate, namely the remarkable case of Stinie Morrison, is in itself a vivid example of the misspent life of a man who might have had a prosperous career. If ever a man in this world started off with all the advantages that Nature could endow him, it was Stinie Morrison. He was tall, extremely handsome, easy and fascinating in his manner, and, for a man who had received little or no education, a more than passable linguist.

I have been at the Bar for over forty years, but in all my experience I can recall no case in which I have appeared comparable to that of Stinie Morrison. I will even go so far to say that on this particular occasion a man was found guilty and sentenced to death on evidence that should not have hanged a dog. Evidently the Home Secretary of that time, Mr. Winston Churchill, thought so, because he reprieved the condemned man and substituted the customary alternative of penal servitude for life. In this instance it did indeed prove a life sentence,

## FORTY YEARS AT THE BAR

because Morrison died in gaol and never had the opportunity of proving the innocence he so passionately asserted.

The reasons I have for believing that the conviction of Stinie Morrison was a miscarriage of justice can be simply set out. In the first place, two of the most important witnesses called by the Crown admitted in the course of the proceedings that they had committed perjury. In the second place, a police constable directly contradicted the evidence of other officers who were put into the witness box, and so seriously did the then Secretary of State for Home Affairs regard the conduct of the police in this case that he afterwards ordered an enquiry to be held which was presided over by Mr. George Cave, K.C., M.P., afterwards, of course, Viscount Cave, Lord High Chancellor of England.

There were other very good reasons why Stinie Morrison should have been acquitted. The principal witnesses for the Crown were three cab drivers. Apart from their testimony, there was no evidence at all that Morrison was at Clapham Common late on the night of December 31, 1910, or on the early morning following. For the present I shall content myself by saying that the evidence these cab drivers gave was so absurdly at variance that it should have been disregarded altogether.

I am also strongly inclined to think that the general atmosphere of the case created throughout the hearing contributed in no small degree to the verdict of "Guilty." In opening the case for the prosecution, Mr. R. D. Muir, Senior Counsel to the Treasury, laid stress upon the contention that the

## FORTY YEARS AT THE BAR

motive of the murder was robbery, though Morrison had obtained a considerable sum of money by other means which I shall reveal as I continue this story. Certain it is that the prisoner was not short of money at the time Leon Beron met his death. Thus the all-important question of motive practically fell to the ground.

The curtain rose on this astounding drama on New Year's Day, 1911. Shortly after 2 a.m. the dead body of a man was discovered lying a few feet away from a public footpath on Clapham Common. The body was in a natural position, the face covered with a silk handkerchief, which on being removed revealed on each cheek a well-defined "S," which had apparently been cut with some light but very sharp instrument. A terrific blow on the head had undoubtedly caused almost instantaneous death. On the trunk of the body were found a considerable number of deep stabs from which a great deal of blood must have flowed.

It would be almost impossible for the assailant to have escaped without being blood-stained in view of the fact that these stabs were undoubtedly inflicted when the deceased man lay on the ground, and the assailant must have stooped over him to inflict them, as well as to have cut on the cheeks of the deceased man the two "S's" referred to.

The body was quickly identified as that of Leon Beron, a man who had in the East End of London the reputation of being in possession of considerable wealth, and was known as a landlord. He passed the greater part of his time in a little restaurant in Whitechapel, known as Snelwar's. It was proved in

## FORTY YEARS AT THE BAR

evidence that on the night of December 31, 1910, he was taking light refreshment and afterwards left the restaurant at about eleven o'clock. He was then wearing a gold watch and chain to which was attached a £5 gold piece. He also had some gold in his pocket, the amount of which was never clearly proved. Neither the watch or chain nor the gold piece were ever recovered.

It was perfectly obvious from the commencement that Beron could not have been killed without the murderer being actively assisted by some other person or persons. There was no doubt that Beron voluntarily left the squalid comfort of the restaurant somewhere about eleven o'clock at night, as it was also undeniable that he had gone by taxi-cab to Clapham Common where he was fated shortly afterwards to die a tragic death.

What could have induced him to make this dramatic midnight journey? Muir, in opening the case for the Crown, suggested that he had been lured there, but for what reason he did not know.

When the police came to search the dead man's clothing they found no money. No weapon, knife, crowbar, or other piece of iron was ever definitely traced or discovered as having been in the possession of Morrison. What Muir did attempt to prove was that something which Morrison carried wrapped up in paper was the instrument by which Beron had met his death. That also I shall deal with further on. It was one of the most unsatisfactory pieces of evidence in the whole case.

The manner in which Beron had been killed would have made it almost impossible for his murderer to

## FORTY YEARS AT THE BAR

have got away without being blood-marked. When the police arrested Morrison on January 8, he had no blood upon him except a few spots on his collar. In a drawer at his lodgings the police found other clean collars, and it will be obvious to the meanest intelligence that a man who has committed a murder will not wear a blood-stained collar for nine days when he has others available.

Now comes the first of the many extraordinary and unsatisfactory features of this strange case. Morrison was arrested while having his breakfast in a small restaurant and taken to Leman Street police station. In opening the prosecution for the Crown, Muir fairly flung a bombshell at me when he said, referring to Morrison's arrest :

*"No charge of any kind had at that time been made against him. The prisoner said to two officers who were taking him along: 'This is the biggest mistake you have ever made in your lives. I have no doubt you have made many mistakes, but this is the biggest.'"*

*"What was the mistake?" continued Muir. "He was taken to the police station, no charge was made, Leon Beron's name was not mentioned, no suggestion was made that he was suspected of committing the murder, but he was detained. After he had been in custody for some hour and a half or two hours, he sent for the Inspector on duty and said he wanted to make a confession, as he called it. He was a foreigner and probably meant a statement."*

*"The Inspector-in-Charge said to him: 'I would rather that you saw Mr. Wensley,' who came shortly afterwards. To Mr. Wensley the prisoner said: 'You have charged me with murder!'"*

## FORTY YEARS AT THE BAR

*“ No such charge had been made, nor had the word murder been mentioned, and Inspector Wensley replied : ‘ I have done nothing of the kind.’*

*“ To Inspector Wensley and to Chief Inspector Ward, who came in afterwards, the prisoner said that he had been told that he was detained there on a charge of murder. Morrison must have evolved that charge out of his own inner consciousness. He knew what he was arrested for—what he was likely to be charged with. No such charge had been made against him at that time at all. Nobody had identified him at that time, and yet he it was who suggested that the charge against him was one of murder.”*

I am temporarily passing over the many untoward incidents that happened in the course of this long and dramatic trial so that I may come to an even stranger happening which occurred on the last day, that is to say, after the evidence for the prosecution and for the defence had been closed and I had addressed the jury.

I had gone back to my chambers in the Temple tired out by my exertions. It had been a long and bitterly fought case, and I did not require to be told that the scales of justice would require to be very delicately balanced if Stinie Morrison was ever to go out into the world again a free man.

More than eighteen years have elapsed since that time, but I shall not readily forget the feeling which possessed me that Morrison was doomed. A combination of circumstances, a web of circumstantial evidence which I found impossible to destroy, were slowly but surely sending my client to the scaffold. And then Fate intervened.

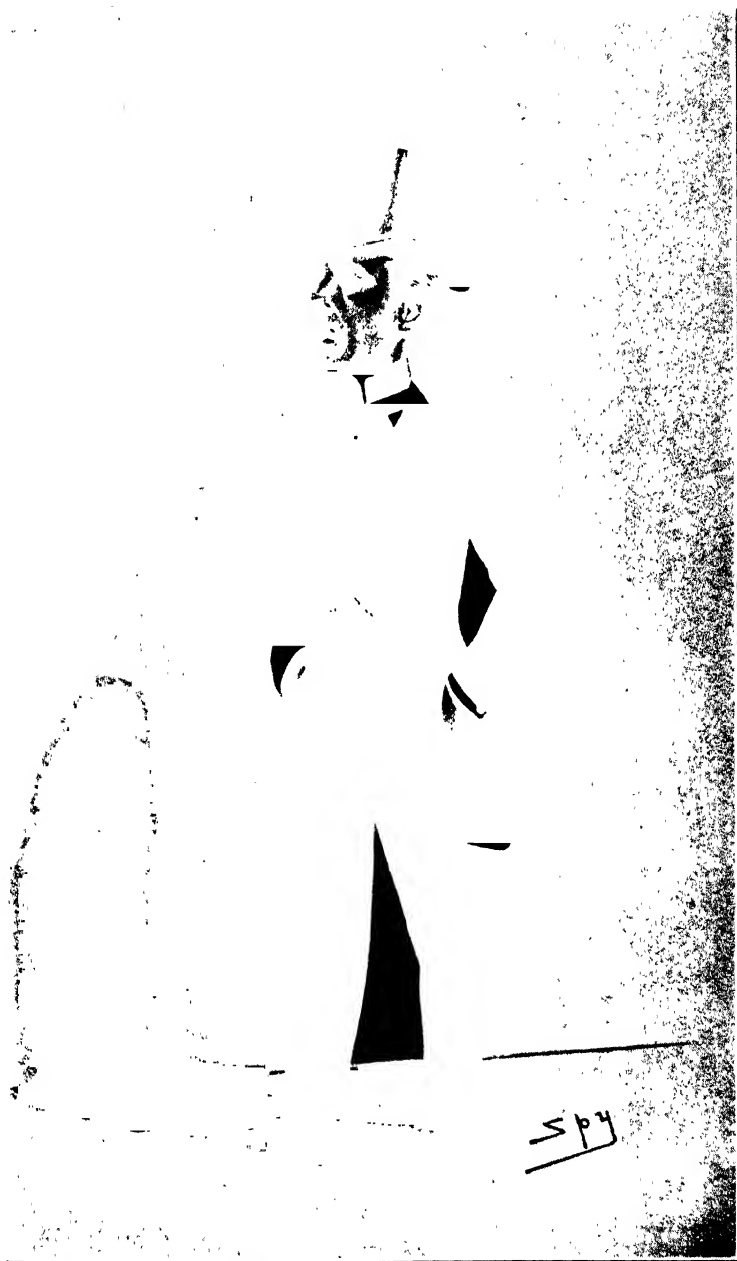


## FORTY YEARS AT THE BAR

About half-past seven at night, when I was thinking of going home, there came to my chambers a letter marked "Strictly confidential." I opened it and there, to my great amazement, I read a surprising statement from a police constable who signed himself George Greaves. The writer said that the evidence of the other police officers that Morrison was *not* told when he was brought into Leman Street that he had been arrested in connection with the murder of Leon Beron was quite untrue. He, Greaves, had been in the charge room when Morrison was brought in, and he asserted in this letter that Morrison *was* informed by the police that he had been arrested on suspicion of being concerned in the murder of Leon Beron.

I had no doubt what my proper course was. With the trial practically finished urgent measures would have to be taken if Morrison was to be saved. I therefore took the unprecedented step of hurrying down to the House of Commons to see my old friend, Sir Rufus Isaacs, then Attorney-General, to take his opinion.

Sir Rufus and myself had been schoolboys together, and he did not require an assurance that I would not have taken the liberty of approaching him on such a delicate matter unless I had strongly felt the necessity of doing everything in my power to prevent a miscarriage of justice. By the time I had explained all the circumstances it was growing late, and Sir Rufus advised me that it would be highly desirable, in view of the lateness of the hour, to see Greaves myself and if possible to obtain a statement from him in time for the adjourned hearing of the case on the following morning. The Attorney-General also gave



LORD DARLING



## FORTY YEARS AT THE BAR

me the friendly suggestion to deal with the matter myself and to trust no one at all.

Quite obviously, if Greaves could be believed, a very important part of the case for the prosecution, namely, that Morrison himself first mentioned the word murder, became null and void. It did more ; it strongly suggested—if it were true—that a good deal of the police evidence would have to be discarded.

When I left the House of Commons the Attorney-General gave me a note addressed to Sir Edward Henry, then Commissioner of the Metropolitan Police, at the same time advising me to go at once to Scotland Yard and ascertain if the Commissioner had gone home.

Like a man inspired, I went to Scotland Yard to find, much as I expected, that Sir Edward Henry had long since gone. Thereupon I took a taxi-cab and went to Sir Edward's private residence in South Kensington. He was naturally extremely surprised to see me, and wanted to know the reason of my call. I gave him Sir Rufus Isaacs' note, and then I said :

" I have received a letter from one of your officers marked ' Confidential ' giving the lie direct to other officers who have been called by the Crown. On the advice of the Attorney-General I want to see this man and take a statement from him myself."

Sir Edward's amazement became even more pronounced.

" This is rather astonishing," he replied. " What is the name of this police officer ? "

" I cannot give it to you," I said. " With all due deference to you, Sir Edward, I don't think I will achieve my purpose if I reveal his name now."

## FORTY YEARS AT THE BAR

"Well," the Commissioner said, "how can I find this officer if you won't give his name?"

"You had better put me into communication with some high officer in the police force who can give me the opportunity of getting in touch with the man I want," I replied.

"I don't want to make myself unpleasant," I added, "but you will quite understand that if I am obstructed in this matter I shall go straight to the House of Commons, see Mr. Winston Churchill, and ascertain the officer's whereabouts by direct order from the Home Secretary."

Perhaps it was very unfair of me to have spoken to the Commissioner in this manner. But I was feeling overwrought; in fact, I am not exaggerating when I say that I was practically on the verge of a collapse. I must give Sir Edward Henry his due; throughout the whole of our conversation he was the embodiment of perfect courtesy and kindness. He had every reason to feel surprised at my strange visit.

He gave me some refreshment of which I was sorely in need, and then asked me to wait until he could do what I wanted. About eleven o'clock he came back and informed me that if I would go to Leman Street police station I would there find Sir Melville Macnaghten, the head of the Criminal Investigation Department of Scotland Yard.

I immediately drove to Leman Street, and on my arrival there at about 11.30 p.m. I found Sir Melville Macnaghten waiting for me. He was in evening dress and naturally did not feel altogether pleased over being called out on duty at such a time of the

## FORTY YEARS AT THE BAR

night. He informed me a little tartly that he had been to a dinner-party, and that the Commissioner had been telephoning for him all over London.

"I am very sorry," I said, "but it is a matter of life and death."

Sir Melville asked me, after I had explicitly told him that I wished to take personally the statement of the officer who had written to me, to give his name, but I again refused.

"Well," asked Sir Melville, "how shall we find this man? I am not going to put any obstacles in your way. If any injustice has been done to Morrison it must, of course, be remedied."

This conversation of ours took place outside the police station, where Sir Melville's car was waiting.

"You had better allow me to go into the station and see the Inspector-in-Charge," I said. "So long as he does not know the nature of my business no harm can be done in giving the name."

"Very well," replied Sir Melville. With that I went into the station, saw the Inspector, and told him that Sir Melville Macnaghten was waiting in his car outside and was going to assist me in finding immediately a constable named Greaves.

I must here say that Inspector behaved himself very courteously and did everything he could to help me. He at once turned up the duty roll and informed me that I should probably find the man I wanted patrolling in the vicinity of Whitechapel Church. I thanked him and went outside to Sir Melville Macnaghten.

"I know where to find my man," I said to him. "He is some little distance from here."

## FORTY YEARS AT THE BAR

Sir Melville immediately offered to drive me to my destination and we went off, about as strange a pair of actors in a drama as one could have found on the boards of any theatre.

The bells of the City churches were tolling the strokes of midnight as we took our departure. Most of the denizens of Whitechapel had gone to their squalid homes, and when I got out of the car in the High Street near the church I had no difficulty in finding the constable I desired to see.

“Is your name George Greaves?” I enquired.

“Yes, sir.”

“I am Mr. Abinger,” I informed him. “I received your letter this evening volunteering, in the interests of justice, to give evidence in the box on oath contradicting point-blank the evidence given by other police officers in your division. Are you prepared to do so?”

“Yes, sir.”

“Well,” I said. “will you come in this car where you will find Sir Melville Macnaghten?”

Greaves seemed more than a little surprised at being suddenly flung into the presence of his superiors. However, he made no demur, and I took him back to Sir Melville, saying: “I have found my man. Here he is.”

We drove back to Leman Street police station, where we were asked into the Inspector's room. He had a fire waiting for us which was very welcome, as I was not only starving but frozen.

“I will examine this man,” I said to Sir Melville. “If you will be so kind as to write it down Greaves will sign it. But I would ask you to be good enough

## FORTY YEARS AT THE BAR

before taking his evidence to write in your own handwriting shortly that Greaves, through coming forward in the interests of justice to give evidence, shall not suffer in his career in the police force."

He wrote these words by dictation and signed them.

"I trust you not to put leading questions to Greaves," said Sir Melville, and I promised him I would not, and did not. Greaves then, in reply to my questions, fully bore out the fact that he had written to me, that he had been in the police station when Morrison was brought into the charge room, and that the police officers were mistaken when they said he was not told that he was detained in connection with the murder of Leon Beron.

The original letter sent to me by George Greaves and his statement are, of course, still on the file at the Central Criminal Court. I was afterwards ordered by the Judge to put them in evidence.

There were only three of us in the room, Sir Melville Macnaghten, Greaves, and myself. Sir Melville passed me the signed document, and I left the police station happy and contented. On arrival at my chambers in the Temple about two o'clock in the morning I remarked to my wife, who had thoughtfully brought me something to eat and drink: "I have Morrison's liberty in my pocket."

At seven o'clock the next morning I rang up Sir Rufus Isaacs and told him I had been successful and had a signed statement by Greaves contradicting the police evidence. I asked him what my proper course was. He told me that I had better go to the Old



## FORTY YEARS AT THE BAR

Bailey, inform Muir of what had taken place, and see the Judge in his private room.

I got to the Central Criminal Court early and asked permission to see his lordship, which leave I obtained. I told the Judge what had happened on the night preceding, and showed him the statement signed by Greaves.

“What right had you to take yourself the evidence of a witness?” asked Mr. Justice Darling, and I told him I had the direct instructions of the Attorney-General.

“When did you see him?”

I duly informed him, and said: “Will your lordship allow me to reopen the case and kindly direct me how you wish me to deal with this extraordinary development?”

He told me to show the statement to Muir and then ask leave to call further evidence. By this time, of course, the court was in a state of the most intense excitement. The crowd in the court and outside must have been wondering what had happened. It was a quarter to twelve before the Judge took his seat, and the rumours flying about that a dramatic dénouement was about to take place kept everyone on the tiptoe of expectation.

But when I showed Muir the statement Greaves had made, I realised that he had already been informed of what had taken place.

“I know all about it,” he said to me curtly. “I don’t want to see it.”

The moment the proceedings reopened I rose and asked leave to call further evidence. Mr. Justice Darling duly gave me the necessary permission. A

## FORTY YEARS AT THE BAR

rustle of excitement swept over the crowded court as I called Police-Constable George Greaves. He gave his evidence straightforwardly, bore out entirely the substance of his letter to me and his evidence given in the hearing of Sir Melville Macnaghten. One could have almost heard a pin drop in the court after I had finished with him and Muir slowly stood up to cross-examine him.

Judge of my astonishment when Muir started a long and searching interrogation of Greaves, clearly revealing that after Sir Melville Macnaghten had left me in the early hours of the morning he had immediately instructed his officers to undertake a stringent enquiry into Greaves' antecedents and, furthermore, to elucidate anything that could possibly be turned to his discredit! Muir, in his deadliest manner, questioned him about his career in the police force from beginning to end, but in my opinion the cross-examination was a complete failure.

To my intense disappointment and chagrin the Judge, in charging the jury later, brushed aside the whole incident as of comparatively no importance, thus destroying my night's work and, as I had thought, an almost certain verdict of "Not Guilty."

Mr. Justice Darling made this highly significant pronouncement :

"It is just as well to say what it has been on my mind to say to you from the time Mr. Muir opened his case. It is this—that this point, which has recently been repeated to you as though it were a critical and crucial point of the case, is to my mind one of the very small points in it."

He was referring, of course, to what I considered

## FORTY YEARS AT THE BAR

to be the highly significant matter of Morrison himself being alleged to have been the first person to mention the word murder on being taken into custody. It is perfectly obvious if the accused man had said that he was to be charged with murder, then he must have known all about the death of Leon Beron.

Morrison strenuously denied ever having made any such statement. He was corroborated in this assertion by Police-Constable Greaves, and I am quite certain, apart from the highly circumstantial evidence that resulted in his conviction, that it played a vitally important part in the verdict which the jury found.

If Mr. Justice Darling really thought that this consciousness of guilt which Morrison was alleged to have revealed was of no importance whatever, it would have been better had he said so at the time Muir mentioned it. Instead, he passed the matter unnoticed until after I had called Greaves.

### CHAPTER III

**I** NOW come to a part of the case in which my conduct has been severely commented upon.

A witness was called for the Crown, a waiter named Joe Mintz. According to my information, this man had been detained as a lunatic at Colney Hatch for three months, and was only discharged from that Asylum on the 22nd October preceding the date of the murder. I asked him six questions in cross-examination, and also whether he had whilst in that condition attempted to commit suicide.

The Rt. Hon. C. F. G. Masterman, since deceased, took it upon himself publicly to castigate my conduct of the defence in so far that I had made a strong attack upon the character of several of the witnesses for the Crown, after having been warned by Mr. Justice Darling that if I persisted in doing so I would subject the prisoner to a similar cross-examination, with results that would probably be infinitely more serious.

If Mr. Masterman had been a practising barrister instead of a journalist he would appreciate that these sort of considerations do not cross the mind of an English lawyer fighting as hard as his power and ability will allow him to obtain the acquittal of a man whom he honestly believes to be innocent. I may not have conducted the case with the skill which Sir John Simon, the late Sir Edward Marshall Hall, or

## FORTY YEARS AT THE BAR

other giants of the Bar may have done, but I did my best.

In his Memoir of the late Sir Richard Muir, Mr. S. T. Felstead, a well known writer on criminology, suggested that I treated the witnesses called by the prosecution as a collection of perjurers. This observation, of course, is extremely unfair, because it was more or less admitted by the prosecution that two of their witnesses had already committed perjury. There also remained the question as to who had told the truth about what happened at Lemon Street police station when Morrison was first brought in. Was it Police-Constable George Greaves, who said that Morrison had been informed that he was wanted for murder, or was it Detective-Sergeant Brogden, who swore that Morrison himself first mentioned the word murder ?

These two officers contradicted each other point-blank, and I had already found myself in the invidious position of defending a man for his life in the face of evidence called by the Crown which turned out to be totally false. What wonder, then, that I should attack the testimony of such people ?

While Mintz was in the witness box I subjected him to a severe cross-examination, with the result that the Judge intervened, and there ensued one of those little breezes which became so common as the case proceeded :

THE JUDGE : “ Do you realise, Mr. Abinger, that attempted suicide is a felony, and that you are asking this witness to commit himself ? I do not say that you must not pursue the matter, but I do not know whether you realise that you are asking him to ac-

## FORTY YEARS AT THE BAR

knowledge a felony. That is an attack upon a witness for the prosecution."

MYSELF: "I am only testing his memory."

THE JUDGE: "All attacks on witnesses for the prosecution are made for testing their memory or something of that sort. I am simply pointing out the consequence of your questions to you."

MYSELF: "If your lordship forbids on the point of humanity——"

THE JUDGE: "I do not forbid your question, but I want to put the thing so plainly as to be obvious to everybody. You know the circumstances of blackening the character of the witness by asking him to acknowledge an attempt at suicide."

MYSELF: "I am asking these questions to see if he was *non compos mentis*."

THE JUDGE: "That is a matter for a Court of Enquiry."

I pursued my question and the witness stated that he had only attempted to commit suicide that once. Here was the extraordinary sight of a man who had been in a lunatic asylum only three months previously called upon to give the most incriminating evidence against a person being tried on a capital charge!

The effect of Mintz's evidence was that Morrison had given him on the night of the murder a parcel rolled up in paper, heavy as if a bar of iron (with which Muir suggested the blows were inflicted upon the unfortunate victim) were enclosed. Morrison and other witnesses swore that it was not a heavy bar of iron, but an innocent flute bought by him at a stall in Aldgate on the 31st December.

## FORTY YEARS AT THE BAR

It will be appreciated that I was not attacking Mintz's character at all, but only his mental capacity, and that, of course, in my judgment, gave no right whatever to the prosecution to attack the prisoner's character in cross-examination.

Morrison, as to his character, did come into the witness box, and that has been described as one of the most damning features of the case in that he was demonstrated to have been a convict on licence at the time of the murder.

In the early part of the case Mr. Justice Darling himself had asked Dr. Freyberger, the Crown's medical witness, whether the injuries to the deceased man's head could have been inflicted by a burglar's jemmy.

The witness said "Yes."

This question, of course, created an atmosphere of prejudice against the prisoner, as it was pretty well common knowledge that Morrison had been twice convicted for burglary.

Why I took it upon myself to cross-examine the Crown witnesses as I did and, as Mr. Felstead says, treat their testimony as being totally unworthy of belief, can be better explained if I recapitulate a few examples of what actually took place.

At the police court hearing on January 16, 1911, the prosecution called a handsome, well-built young girl named Eva Flitterman, who swore that she had known Morrison for about three weeks—that is to say, after the murder of Leon Beron. On being introduced to him she noticed that he was wearing a watch and chain with a £5 gold piece. The suggestion was obvious. Beron had been in possession of such a coin on the night of his death.

## FORTY YEARS AT THE BAR

I put her under cross-examination, when it speedily became obvious that her word could not be relied upon. She said that the police had called her to give evidence to the effect that she had seen Morrison wearing a £5 piece, and that she knew one when she saw it because her father also possessed one.

Evidently the young lady became slightly worried over the matter, because a few days afterwards she called at my chambers and asked to see me. I declined to have anything to do with her, and told my clerk that it would be better for her to go and see the Director of Public Prosecutions, then Sir Charles Mathews. I afterwards discovered that she went there, with the result that Muir subsequently announced that he could not rely upon her evidence. I strongly objected to this course, and requested that she might be recalled for further cross-examination. The magistrate, the late Mr. Edward de Grey, upheld me and ordered her back to the witness box, when an altogether different story revealed itself.

This is what she then said :

“ When I stated last week that he (Morrison) had a £5 piece on his chain I made a mistake, because I did not know what the money was. I asked my mother what father had on his chain and she replied that it was a £2 piece ! When she told me that I went to the police station at Leman Street and saw a man. He asked me to come back at half-past nine. I then went and saw Inspector Wensley and told him I had made a mistake. He informed me I should have to go to Morrison’s solicitors and tell them what had occurred.”

In further cross-examination Flitterman said :



## FORTY YEARS AT THE BAR

“ I remember the officer asked me if my first name was Eva. First I denied it. Then I said it was. I felt afraid. He had not then asked me about a £5 piece. He only asked me to come to the station. If I said he did last week it was my first appearance in court and I was afraid and nervous. I did not understand that the prisoner was being tried for murder.”

In the face of this recantation I had no doubt as to what I should do. I immediately applied to the magistrate to issue a warrant charging this young woman with committing perjury. He asked that the criminal information should be put in writing and sworn before him.

However, other tactics were adopted. A letter was sent to Sir Charles Mathews by the solicitors instructing me asking for process, but the Director replied that he did not think it was a matter in which he could take the initiative.

Then I was compelled to deal with an individual named Sam Rosen, a cabinet maker, speaking no English, who through an interpreter told the Court that on the night of December 31, 1910, he was at a restaurant in Osborne Street, Whitechapel, at about 11.30 p.m., where he saw Leon Beron with Morrison. They were at a table eating, and were still there when he left shortly afterwards.

He saw them again about half-past one in Whitechapel going in the direction of Sidney Street. He afterwards went to the police station at Leman Street, when Morrison was in custody, and pointed him out as the man he had seen with Beron.

But when I put him under cross-examination it

## FORTY YEARS AT THE BAR

soon became manifest that he, also, was not exactly a paragon of truth. He informed me that he had told lies at the police court and that everything he said at Leman Street had been misinterpreted by the police. He wanted to tell the truth, which he had not done at the police station. That, and a great deal more, all to the effect that he had been frightened of being sent to prison if he attempted to tell another tale. I shall not deal with the matter at length, although I have quoted the incident as being typical of the class of witness put forward by the Crown. It was quite obvious to everyone in the court that such people could be persuaded into saying almost anything, and I am not alone in thinking that they made their first statements more in terror than anything else. Whether their consciences afterwards pricked them, or whether some of their compatriots suggested to them the desirability of ringing the changes, I cannot say. Certainly Rosen was not called by the Crown at the trial, neither was Eva Flitterman.

One of the most important witnesses for the prosecution was a woman known as Mrs. Nellie Deitch. She swore at the trial that at half-past one in the morning of January 1, 1911, she was walking in Whitechapel when she met Leon Beron, whom she had known for about twelve years.

Beron had a companion with him, whom she afterwards recognised as Stinie Morrison. Now, this is the most vital date and time in the case, because a cab-driver was afterwards called to give evidence that he picked up Morrison and Beron about two o'clock in the morning at that very place in White-

## FORTY YEARS AT THE BAR

chapel and drove them to Clapham. It will be appreciated that Mrs. Deitch's evidence was so seriously damaging that it had to be dealt with. I could not possibly permit it to go unchallenged.

I must confess to a feeling of great hesitation before I subjected Mrs. Deitch to questions concerning her character and possible credibility. The penalty of cross-examining witnesses for the Crown on such matters leaves it in the power of counsel for the prosecution to cross-examine the prisoner as to *his* character. It struck me at the time as being a most preposterous state of affairs that a person on trial for his life who had been previously convicted should be debarred, through his counsel, from placing before the jury the character of witnesses giving deadly evidence against him.

Say, for instance, in such circumstances, that a witness who had been convicted of perjury gave evidence against the prisoner, is counsel defending the man in the dock to allow such a witness to leave the box uncross-examined as to his convictions for perjury, and thus delude the jury into believing he is a reliable witness?

The penalty is, of course, dreadful. If counsel for the prosecution thinks it his duty to cross-examine the prisoner as to his character, the effect may be so serious, as it undoubtedly was in Morrison's case, to sway the verdict of the jury. Thus a man may be sent to the scaffold for what is nothing more than an invidious technicality of the law.

In such an instance a verdict of guilty would be practically a foregone conclusion. In the trial of Stinie Morrison I knew perfectly well that the wit-



SIR PETER EDLIN



## FORTY YEARS AT THE BAR

nesses being called against him were people whose testimony it would be extremely unwise to believe, but I found myself on the horns of a very serious dilemma, knowing as I did that Muir would not hesitate to exercise his right to attack the prisoner.

Evidently Mr. Justice Darling expected me to cross-examine Mrs. Deitch, because he intervened and asked me whether I intended to make any definite imputation against her.

"I may come to that later," I replied.

I then took consultation with my extremely able junior, Mr. A. D. A. MacGregor, and the solicitor who instructed me, as to whether we should use the materials in our possession for the purpose of discrediting Mrs. Deitch's testimony.

MacGregor suggested I should speak to Muir and ask him if I did whether he would claim his right to cross-examine Morrison, but I thought that an undesirable course, as I had no right to ask counsel for the Crown such a question, so I went to the dock and spoke to the prisoner himself.

I explained to him fully that if I questioned the witness as to her character he exposed himself to a cross-examination at the hands of Mr. Muir, which would bring out his previous convictions.

Morrison said to me: "I have never been convicted of an act of violence in my life. It is true I have been convicted twice for petty larceny and afterwards twice for burglary, but never charged with any assault involving violence, or any crime of that class."

He also informed me that if I did not interrogate Mrs. Deitch as to her reliability he would, whereupon

## FORTY YEARS AT THE BAR

I went back to my place and, with the acquiescence of my junior, put certain questions to the fashionably dressed lady standing in the box. I would like it to be clearly understood that I had Morrison's direct instructions to interrogate Mrs. Deitch as to her mode of life, and it is a pity my critics should not have been aware of the fact before attacking me in the way they have done.

I asked Mrs. Deitch where she got the handsome fur cape she was wearing, to which the lady pertly retorted that she would ask me where my wife got her furs. I went on to make a few more suggestions, causing the Judge to remark that he would expect me to produce the women whose names I mentioned at the sitting of the Court next morning.

Lo and behold! the following day the solicitor for the defence produced six rather bedraggled ladies! I asked Mrs. Deitch whether she knew any of them and she said "No," whereupon there was a chorus of "Liar!" I could not, of course, call any of them into the witness box, by the rules of evidence which obtain, and the matter ended there.

At the time of the Morrison trial I had been at the Bar for over twenty-five years, and in my humble judgment the dominating factor which brought about a conviction dead in the face of a summing up distinctly favourable to the prisoner was the unmistakably hostile atmosphere which made its appearance from the very beginning. I have the best of reasons for knowing that the Judge himself was towards the end of the trial greatly shaken in his view as to the guilt of Morrison—hence his scrupulously impartial summing up which, if anything, leant toward the

## FORTY YEARS AT THE BAR

prisoner. Competent legal critics expected an acquittal, and there is no doubt, had it been possible, that there should have been the equivalent of the Scottish verdict of "Not Proven," in other words "Not Guilty."

The manner in which the prosecution conducted the case made it almost impossible for Morrison to have a fair trial. Hints were dropped quite early in the case which the jury could not have possibly misconstrued. As I have already pointed out, Doctor Freyberger, the expert witness called by the Crown to state the nature of Beron's injuries, was asked whether they might not have been inflicted with a burglar's jemmy! On the night of the murder Morrison had left at Snelwar's restaurant a parcel which he said contained a flute; Muir contended that it was some heavy article which might have been a jemmy. A person of no intelligence whatever would have no difficulty in determining the relativity of the two incidents.

The only really important evidence against Morrison was that of three cab-drivers. Apart from their testimony, there was no proof at all that Morrison was at Clapham Common on the night of the murder. I, of course, set aside the evidence of Eva Flitterman and Sam Rosen, admittedly entirely untrue, but which if believable would have been damning facts against Morrison.

I am now about to analyse the evidence of these three cab-drivers, and in doing so I hope I will make it plain how worthless it was. The driver of a hansom



## FORTY YEARS AT THE BAR

cab, named Edward Hayman, swore that he picked up two passengers at the corner of Sidney Street at 2 o'clock on the morning of January 1, 1911. He was ordered to drive to Lavender Hill, and he said that the journey took from forty to forty-five minutes. On January 17, after practically every newspaper in London had printed photographs of Stinie Morrison, he identified him as one of the two men he had picked up. When I cross-examined him he admitted that he had seen Morrison's portrait in the Press before he identified him, also that on January 9 he had seen a police notice giving a description of Morrison and had then made a statement to the police. He was unable to identify his other passenger beyond saying that he was a short, dark man.

This identification was to my mind of no value whatever. Just fancy a cabman driving all day, and part of the night, identifying a passenger sixteen days after the event, when the only opportunity he had of taking stock of him was when engaged, and when paid !

The second cabman, one Alfred Stevens, informed Detective-Sergeant Cooper that he picked up Morrison at Clapham Cross at 2.30 a.m. on January 1, that is to say at practically the same time, according to Hayman's evidence, that Morrison was being driven to Clapham ! I should explain that the time Stevens gave was afterwards altered to a later hour. He identified Morrison on January 17, but having seen a notice in a cab-yard containing a description of Morrison he had already been to the police on January 10. Stevens swore that he was told to drive his fare to Kennington, the only conversation being :

## FORTY YEARS AT THE BAR

"Cab, sir?"

"Yes, drive me to Kennington."

After reaching his destination he drove his cab to the "Elephant and Castle," which journey took him seven or eight minutes. He made the vitally important statement that his fare was alone, and that after he had got out of the cab he saw him walking towards London. He also admitted that he had seen a portrait of Morrison before he came to the police court.

Now, Muir, in opening his case, fixed no definite time when Stevens picked up Morrison beyond a vague "In the early hours of the morning." Here we have two directly contradictory statements. To my mind the identification of Morrison by Stevens was equally worthless as that of Hayman. London was ringing with this savage murder, yet this cab-driver never went to the police at all till nine days after the murder, and did not identify Morrison until sixteen days after. His opportunity of noting the appearance of Morrison was of the slenderest character. It was, of course, quite dark at this hour.

It brings to my mind the case of Adolf Beck, the unfortunate man who was identified by six different women, or more, all of whom, according to their evidence, were in Beck's company for some hours, and all of them swore positively to his identity. They were all wrong, as was afterwards proved. Poor Beck suffered five years' penal servitude. He was a second time convicted on mistaken identification, and but for the vigilance and searching enquiries of a certain police officer would have probably gone to gaol for another term of imprisonment.

## FORTY YEARS AT THE BAR

Yet in this life-and-death case of Stinie Morrison this class of identification, taken sixteen days after the date of the murder, was accepted !

The third and last cab-driver called by Muir was one Alfred Castling. He swore that he picked up two men on the rank near Kennington Church at about 3.30 a.m. on January 1, at which time Morrison must have been in Stevens' cab !

Where did the second man spring from ? Stevens swore that Morrison was alone at Clapham Junction and that he was his only passenger to Kennington. He, Castling, picked out Morrison at Leman Street police station on January 9, eight days after the murder, and also after Morrison's portrait had appeared in many daily papers and in almost every Sunday paper. He said that the second man pushed Morrison into the cab, that he went through Finsbury Gate, and was requested to stop in Seven Sisters Road, a place some miles away from Whitechapel. Morrison paid him 7s. 6d. He could give no description of the second man, whose portrait had never appeared in the Press, even if there were a second man at all. All he could remember was that he wore an overcoat ! (How surprising a garb in the middle of winter !) that the second man was shorter than the prisoner, and that he was winding up his engine when his passengers got into the cab. But how he could connect a murder committed at Clapham Common with two passengers he had picked up in New Year's early morn at Kennington and driven to Seven Sisters Road was never explained. He admitted in cross-examination that he had a matter of two minutes to note the appearance of his fares, and he only identified

## FORTY YEARS AT THE BAR

Morrison on January 9, having had the same opportunity as Hayman and Stevens of seeing a full-sized portrait of Morrison in the Press.

Now, from the moment that Castling dropped his passengers in Seven Sisters Road, the tracing of Morrison's movements to his home in Whitechapel was unproved. I commented strongly on this fact in addressing the jury. Was it likely that Morrison would take a taxi-cab to drive to Kennington after committing a murder on Clapham Common, a distance which he could have walked in half an hour and saved himself the danger of being identified? And why, if Castling's memory was reliable, should Morrison ask to be driven to Seven Sisters Road, miles away from where he lived? If Castling was not mistaken, Morrison must have walked back to Whitechapel, otherwise, no doubt, some taxi-driver, or tram conductor, if trams were running at that hour, could, and would, have been called by the Crown to identify him. Chief Inspector Ward and Inspector Wensley must have taken every imaginable step to secure such evidence, but there was none. Morrison must inevitably have walked through Whitechapel to get to his home, where he undoubtedly slept that night. Furthermore, he must have passed a score of police officers on his way who would have seen and identified him. What greater opportunities did they have in the long and weary tramp he must have taken from Seven Sisters Road to his home, that is, again, if Castling's evidence was worth anything.

Not a soul was called to prove that they saw Morrison. I am making no suggestions that any of

## FORTY YEARS AT THE BAR

the cab-drivers deliberately swore that which they knew to be untrue. Indeed, I think, they were three honest men, but had all made serious mistakes.

Yet, in the face of this contradictory and unsatisfactory evidence Morrison was found guilty, and it may well be that when Mr. H. K. Avory, then the Clerk of Arraignment, told me it was the most extraordinary jury he ever had in the box, he may have had these facts in his mind.

## CHAPTER IV

THE tragic termination of this sensational trial deeply affected my spirits, for I had not deemed it possible that Morrison could be found guilty after the manner in which Mr. Justice Darling summed-up. However, man proposes and God disposes, and I immediately busied myself in preparing a case for the Court of Criminal Appeal.

I felt so exhausted with my labours that I thought it advisable to write a letter to the Lord Chief Justice, the late Lord Alverstone, asking him if he would be good enough to give me a short respite as I did not then feel well enough to conduct the appeal. The terrible struggle at the Old Bailey had completely unnerved me. The Lord Chief wrote me a very kind letter in reply, which I still have in my possession, in which he said how glad he would have been to accommodate me, but as the date for the execution had already been fixed he could not possibly interfere with the arrangements made by the Sheriff, and I must be prepared to argue the case on the following Monday.

Monday came, and accordingly I opened the appeal, fortified with liberal tumblers of brandy and milk. It was not an experience I shall readily forget. For two and a half days I addressed the Court. I asked the Lord Chief Justice many times to stop me if I was making no impression, but he told me to continue,

## FORTY YEARS AT THE BAR

and with his fellow-judges, patiently heard me out to the end.

I have no doubt now that there was little or no possibility of the appeal succeeding, and the fact that the Court heard me for so long was the desire to let it be demonstrated to the foreign population of this country that every accused person, whatever his or her nationality, receives a just and impartial trial. When I concluded my labours the Lord Chief Justice conferred with his fellow-judges and after a few minutes informed Mr. Muir that there was no necessity for him to reply to my arguments. That meant that the appeal was dismissed and, so far as I was concerned, the trial of Stinie Morrison was at an end. There remained nothing to hope for but a reprieve.

I will give Morrison his due ; he never at any time showed the slightest sign of cowardice or fear. As he had declined the Judge's mercy when he was sentenced to death, so he continued, when they took him to the condemned cell, to assert that he had not committed the crime.

The case had naturally aroused tremendous public interest ; indeed, right from the time I was retained for the defence I received an embarrassing amount of publicity which added a good deal to my worries. Nevertheless, a great many people were anxious to help me, thinking, as I thought, that Morrison had been made the victim of a circumstantial prosecution when he might easily be innocent. Several people in distinguished positions interested themselves in the matter, in particular a noble-hearted Countess who sent a card to my chambers and asked if I would be good enough to call upon her immediately.

## FORTY YEARS AT THE BAR

I went to Carlton House Gardens where I saw this lady. She told me that she knew many persons in high positions who might help me in obtaining a respite for Morrison, and placed her purse at my disposal. I thanked her and said I should be grateful for anything she could do to obtain a respite, but that of course I could not take from her any money at all.

My last hope of obtaining Morrison's release now lay in going to the House of Lords, but before I could do so it was necessary to obtain a fiat of the Attorney-General. I accordingly made an appointment with Sir Rufus Isaacs, and in due course attended.

"Of course," he said to me, "you will appreciate that I can only give you my fiat on a point of law raising matters of general public interest."

I told him that I quite appreciated that.

"Now tell me your point of law," said he.

"The point," I replied, "is this. Here is a man being tried for his life. Threats were held over me during the whole of the trial preventing me properly cross-examining the police or any other witness for fear that an incautious question might entitle the prosecution to cross-examine Morrison. I therefore did not question any police officer thoroughly upon his evidence for fear of the fact coming out that Morrison was a convict on licence, with the result that my cross-examination of the police officers was naturally greatly restricted.

"Had a convicted perjurer given evidence against Morrison I should have been compelled to let the witness leave the box without being cross-examined as to his conviction, unless I exposed Morrison to



## FORTY YEARS AT THE BAR

cross-examination by Muir as to his previous convictions.

"This," I submitted, "is so monstrous a position, calculated to lead to a serious miscarriage of justice, that in cases of murder, counsel for the Crown should not exercise the right conferred by the Criminal Evidence Act. It should be left to the discretion of the Judge, the exercise of which might afterwards be left to the review of the Court of Criminal Appeal."

The Attorney-General remarked: "This would require fresh legislation."

"Morrison is a Jew," I said to Sir Rufus. "I am a Jew, and so are you, and I am very anxious that your judgment should not be warped by any racial sympathy."

Sir Rufus smiled, and, passing me his cigarette case, remarked:

"You need not be afraid of that."

I argued the point with him for an hour, but could not move him, with the result that my last effort was in vain. The only thing to be thought of then was a reprieve, and to that end I at once bestirred myself. I drew up the petition, took it myself to Wandsworth Prison where Morrison was lying under sentence of death, and had an interview with the Governor.

I was received with the greatest kindness and consideration, but when I asked whether Morrison might be brought into his, the Governor's, room because I did not feel equal to the ordeal of entering the condemned cell, he explained to me that by prison rules and regulations he could not possibly grant such a privilege. I must, if I wanted to see a man awaiting execution, go to the condemned cell.

## FORTY YEARS AT THE BAR

A short description of this cell may be of interest. I had figured to myself a dungeon, instead of which I found myself in a large, airy and pleasant room with terra-cotta wall-paper, a large gasolier, a bright fire burning, and in a corner a bed with a pretty coverlet, and a large table strewn with newspapers and plenty of cigarettes. The only unpleasant feature was the presence of two warders sitting in the room.

Stinie Morrison himself was lying in a chair with his feet on the mantelpiece, smoking and reading, the very essence of nonchalance—clean, his hair neatly brushed, his hands white and nails well pared, looking the very picture of a healthy and well-groomed man. He certainly did not look like a man awaiting execution.

It was very cold and a window was open, and I asked Morrison if I might keep my hat on. He said : “Certainly.”

He wore no boots, but had on a neat pair of camel-hair slippers.

“Morrison,” I said, “I sat up all last night to settle this petition. It will be widely distributed and signed, I have no doubt, by many thousands of people, and may result in a reprieve.”

“My dear Mr. Abinger,” he replied calmly, “I am very grateful to you for all your efforts, but I will not sign it. I am innocent. I am not going to cry for mercy to any man. If they are going to hang me they must. After all, a man must die some time. I am not afraid.”

I was already overwrought with the long and difficult trial, and involuntarily my tears began to

## FORTY YEARS AT THE BAR

flow. The sight of this splendid athletic man, in the full flush of his young manhood, who was so soon to die a violent death, was more than I could bear.

“Do not cry,” said Morrison. “You did your best, and I don’t mind.”

“Sign the petition,” I urged.

“I will not,” he said.

I begged him to do so over and over again, but he point-blank refused.

“Can you tell me anything which will help to save your life?” I asked, little dreaming of the amazing answer I was to receive. I think he was affected at my tears, and he said :

“I can tell you something which may surprise you. Some little time before the murder I forged a cheque for two hundred pounds on the South-Western Bank, Holloway Branch, and was paid in bank-notes. I went to Cook’s at Ludgate Hill and converted the bank-notes given to me by the South-Western Bank into French bank-notes. I then jumped on a bus and went to Cook’s in Piccadilly and reconverted them into English money.”

I stood dumbfounded. I remembered then, too late, of course, something that had puzzled me during the whole of the trial at the Old Bailey. In the court was sitting a gentleman whom I knew well by sight as being a clerk from the Bank of England, who always attended trials whenever it was necessary to produce bank-notes. He was never called, and both I and my learned junior puzzled ourselves as to the reason of his being present in court all the time. I now appreciated, of course, the fact that he had been

## FORTY YEARS AT THE BAR

ordered to attend to produce if necessary the bank-notes which had been paid in exchange for the forged cheque.

When Muir opened the case for the prosecution he had mentioned, if not as definitely as he might have done in such circumstances, that the motive which lay behind that of Morrison's alleged crime was robbery. He certainly cross-examined the prisoner at great length upon being found in possession of a large sum of money which, he, Muir, suggested had originally belonged to Leon Beron.

But it is certainly highly significant that when Muir became entitled to cross-examine Morrison's credit, he never questioned him at all on the matter of this forgery, although he was fully entitled to do this, as he was on anything else appertaining to the prisoner's character, such as his previous convictions for burglary.

"Why did you not tell me this before?" I asked Morrison. "Had I known of it, it must have altered the whole course of the trial."

"I will tell you," he replied. "I thought from the very beginning that you would get me acquitted on the charge of murder, and I did not want to confess to forgery unless it could not be avoided."

"Well," I said, "you have landed yourself in this predicament. Apparently you had plenty of money at the time Leon Beron was murdered?"

"That is so," Morrison said, "and the money which Mr. Muir proved I was in possession of and suggested had been taken from Beron was the balance of the two hundred pounds."

"Very well," I said. "It remains to be seen what

## FORTY YEARS AT THE BAR

I can do for you now. If you had only told me about this at the beginning you might not now be in prison."

I then took my departure, feeling that I could stand the strain no longer. The Governor of the Prison, seeing how distressed I was, very kindly invited me to dine with him and his family. One can well imagine the change of scene from a condemned cell to the bright and cheery atmosphere of a happy home, although even in the prison itself I could sense the gloomy feeling which is never absent when there is a man awaiting the executioner.

I am sure the Governor felt the strain as much as I did. Of all the ghastly sufferings the law can ordain, there is nothing worse than the intolerable state of suspense which occurs in every gaol while a man is under sentence of death. Even the prisoner himself does not undergo the agony of mind that the officials do. All the other inmates of the gaol are affected, the warders go about their duties in a state of the deepest gloom, while the unfortunate Governor lives only for the day when the ordeal has come to pass and the law has taken its toll.

Stinie Morrison had become very well liked since he had been taken to Wandsworth to await hanging, and I do not suppose I am exaggerating when I say that he was easily the least affected man in the prison. At any rate, the kindly Governor fully realised the depth of my feeling.

"Come and have something to eat," he said to me. "You look very ill."

With a sense of the deepest thankfulness I accepted his hospitality, and after a hearty meal took my

## FORTY YEARS AT THE BAR

departure resolved to make one more final bid for Morrison's life.

I went immediately to the competent solicitor then acting for Morrison, Mr. Alfred Robinson of Messrs. Philbrick & Company, of Basinghall Street, and imparted to him the information that Morrison had just confessed to me.

Mr. Robinson, like myself, fully realised the immense importance of the matter. He at once went to the South-Western Bank, saw the manager, who immediately identified Morrison's portrait as that of the man who had cashed the cheque. Also, more significant still, he informed Mr. Robinson that the police were already in possession of all the facts, as he had communicated with them the moment he discovered the cheque to be a forgery.

After this highly interesting disclosure, Mr. Robinson went on to Messrs. Thomas Cook & Son's in Ludgate Circus, and then to the Piccadilly branch of that firm, where at both places employees identified Morrison as the man who had converted the notes into French money and immediately afterwards reconverted them back into English money.

The following day, feeling that I now had an impregnable case, I took my courage in my hands and telephoned to the House of Commons to ask if I could speak to Mr. Winston Churchill, the Home Secretary. I have always looked upon him as a man of the kindest disposition, and I ventured to think he would not take offence at a stuff-gownsmen taking upon himself the liberty of approaching him personally with a view to saving a condemned man's life.

## FORTY YEARS AT THE BAR

Mr. Churchill spoke to me very kindly and asked me to come down to the House of Commons immediately. After I had communicated to him what Morrison had told me in the condemned cell, he sent me on to see Sir Edward Troup, at the Home Office. Sir Edward and I had a long talk together. Then he called in a shorthand writer to whom I narrated the entire matter in the fullest detail. On taking my departure, Sir Edward informed me that the matters I had raised would receive his immediate attention. He was as good as his word and more. Two days later Mr. Churchill sent me a telegram in which he informed me that he had decided to reprieve Stinie Morrison.

It will always be open to the gravest possible doubt whether or not Stinie Morrison was guilty of actually murdering Leon Beron. It would be idle for me to deny that he was a man of extremely bad character, and the only reason why I made such strenuous efforts to save his life was that I considered it to be an infringement of the cardinal principles of justice that he should go to the gallows upon some of the flimsiest and most unreliable evidence I have ever known.

After his sentence had been commuted to one of penal servitude for life I never heard from him again. Of course, if he had lived to serve his life sentence he would have been released, had he earned the usual full remission for good conduct, in 1926, and would have come out of gaol still a comparatively young man.

## FORTY YEARS AT THE BAR

I have seen it stated in print that he went on hunger strike, and that his death at Parkhurst Prison, in 1921, was due to his constitution having been undermined by this practice. I have no personal knowledge of this at all, and, of course, the Governor of the prison would not be likely to convey such a piece of information to the outside world, even if it were true. Far likelier that Morrison died an early death pining for the freedom to which he believed himself entitled.

He was one of the most peculiar men I have ever known. The outstanding traits of his character were reticence and self-consciousness. During the weeks when he first appeared at the police court charged with killing Beron I had many opportunities of talking to him, but he steadfastly refused to give me any information beyond protesting his innocence. If he was in fact at Clapham Common on the night of the murder with some mysterious person, he never breathed a word concerning him. He carried to the grave the secret which cost him his liberty and his life, and therefore paid, if not altogether as the law ordained, the full penalty.

Some months after Morrison had been reprieved I was told by my clerk that a lady wished to see me on urgent business concerning Morrison. A neatly dressed young woman was then shown into my room.

I asked her the nature of her business.

"I am Mrs. S.," she replied. "I was a nursery governess when a man named S. betrayed me and then married me, and afterwards sent me upon the streets to earn money. On the 31st December my husband—Mr. S.—went out and I did not see him



## FORTY YEARS AT THE BAR

until about the 4th January. He came home at midnight with his greatcoat buttoned up to his chin. He ordered me to make a fire and I did so. He then unbuttoned his greatcoat and to my horror I found his clothing covered with blood. I said : ‘ Good God, what have you been doing ? ’ ”

“ He, drawing out a long knife, said : ‘ If you ever open your b—— mouth I will draw this across your throat.’ He then proceeded to burn his shirt, waistcoat, and trousers, threw some sovereigns on the table, and said : ‘ You may have those——’ ”

I interposed : “ Why in heaven’s name did you not come to me before ? ”

She said : “ I was in mortal fear of S. He had immense power over me, and I dreaded that knife.”

“ Why come now ? ” I asked her.

“ Because I saw him off from Tilbury last night on a ship bound for the United States,” she replied.

“ Will you come to the Home Office ? ” I asked.

She said : “ Yes.”

I sent for a taxi-cab and drove her straight to the Home Office and asked to see Sir Edward Troup.

“ Now,” I said, “ will you tell this gentleman the story you have just told me in the Temple ? ” Which she did in such a manner that it was impossible to doubt that she was telling the truth.

Sir Edward Troup observed that he had already sent for Chief Inspector Ward, who was in charge of the case.

In a short time the Chief Inspector arrived. The woman repeated her story again in his presence, and I said :

“ Now, Mr. Ward, cross-examine her.” And he

## FORTY YEARS AT THE BAR

did so without any effect at all. The woman stuck to her story.

(In passing, I had the greatest respect for Chief Inspector Ward. He lost his life during the War through an act of great bravery. When bombs were falling in an air-raid he, regardless of his own safety, ran out of his house to try to rescue a young woman, who was killed, and was himself also struck by a bomb and killed.)

Mr. Ward's cross-examination was just completed. I was greatly elated, thinking that this woman must induce the Home Secretary to release Morrison, as I felt little doubt that S. was the actual murderer—indeed, it was impossible not to believe that it was S.'s hand that killed Beron—when Chief Inspector Ward asked :

“ By the way, when your husband went out on the night of the 31st December, was he alone ? ”

“ No,” said the woman.

“ In whose company was he ? ”

“ He was in the company of Stinie Morrison.”

“ What time did they go out ? ”

“ About eleven o'clock.”

In my subsequent efforts to induce the Home Secretary to release Morrison on this evidence, the fact that he was seen so late as eleven o'clock at night on the 31st December with S., the murder having been committed a little after two o'clock the following morning, was fatal.

In parting with the case of Stinie Morrison some considerations occurred to me which may attract the attention of the Law Officers of the Crown, and are of great public interest and importance.

## FORTY YEARS AT THE BAR

This murder trial has brought into full relief the extraordinary result which the Criminal Evidence Act of 1898 has upon the trial of a prisoner accused of wilful murder when such person has been previously convicted.

Morrison, as I pointed out, had been twice convicted of petty larceny and twice convicted of burglary, but no crime involving violence had ever been alleged against him. The framing of the Act intended to confer a privilege upon the accused person by allowing him to go into the witness box and give evidence of fact upon oath. Formerly he stood mute. (Before Sir Charles Russell could address the jury in the Maybrick case, Mrs. Maybrick had to make a statement, not upon oath, from the dock, upon which he founded his subject.)

The question which arises in a case like that of Stinie Morrison is whether the penalties imposed by the Statute do not seriously outweigh the benefit which the Statute confers. Under the Act the prisoner, through his counsel, may cross-examine the witnesses for the prosecution to their credit, unless

- (1) he is willing to forgo his right to go into the witness box, or
- (2) he is willing to expose himself to the full fury of a cross-examination by the prosecution, not only upon his previous convictions, but upon all incidents in the whole of his life, calculated to discredit the unfortunate man in the eyes of the jury.

What is a prisoner or his advocate in these extraordinary circumstances to do? As I have pointed

## FORTY YEARS AT THE BAR

out, in the preliminary examination before the police magistrate it was well established by cross-examination that two witnesses had committed perjury, and at the trial P.C. Greaves' evidence on oath was in direct conflict with that of Sergeant Brogden as to whether prisoner was or was not informed that he was arrested for murder when taken into the charge room.

If one could go by precedent, it would be expected that on such admissions as were made by Flitterman and Rosen the case for the Crown would collapse and the prisoner be discharged, and for that purpose it is useful to recollect the Parnell Commission. It will be remembered that immediately after the brilliant and successful cross-examination of Piggott by Sir Charles Russell the case for *The Times* was abandoned.

Let us imagine such a case as this. "A," who is charged with murder, having been previously convicted of manslaughter, "B" and "C" conspire together to convict "A" of murder. If the prisoner, or his counsel, dare to suggest, in cross-examination of "B" and "C" or either of them, that they have conspired together to convict "A" of murder, or that they are of bad character, then when "A" goes into the witness box to give evidence counsel representing the Crown would be entitled to cross-examine the prisoner upon his previous conviction of manslaughter, with the probable result of a miscarriage of justice.

The most infamous person in the country could give the most deadly evidence against the prisoner on trial for his life without the jury knowing the

## FORTY YEARS AT THE BAR

witness's true character, unless counsel adopts the almost equally dangerous course of cross-examining the witnesses to credit.

What does the Statute provide in substance? It provides that you may cross-examine Crown witnesses to credit if you like, but it must be a sort of bargain, and if you do counsel for the Crown may cross-examine you.

It appears to me that this *tu quoque* style of reasoning is quite illogical and arises from confusion of ideas.

It becomes an unequal contest—it is *the prisoner who is being tried for his life, not the witnesses*. The penalty is unequal. The circumstances are unequal. Nothing can exceed the mental agony of a prisoner struggling for his life under the skilful, calm cross-examination of an able counsel (in the case of Morrison for two whole days by Mr. Muir). Is it conceivable that in such circumstances an accused person could hope to pass through such a cross-examination unscathed?

A witness called by the Crown who gives deadly but very prejudiced evidence against the accused resulting in the conviction and execution of a prisoner escapes with a prosecution for perjury, or, in the supposititious case I have mentioned, for conspiracy.

The onus is always upon the Crown to establish the guilt of the prisoner by facts and not by bad character. The danger, therefore, of the prisoner being convicted, not upon the facts of the case, but upon his own bad character, so enormously outweighs any possible advantage to the jury of arriving at a true verdict "according to the evidence" that, to my

## FORTY YEARS AT THE BAR

mind, it would be far safer to rigidly exclude it altogether.

The Statute, excellent as it may be in many respects, requires substantial and immediate amendment. If it be desired to retain the right to cross-examine the prisoner to credit in the circumstances before pointed out, a discretion should be vested in the Judge as to whether in the particular circumstances of the case the prisoner should be so cross-examined to credit. The exercise of such discretion should be open to review in the Court of Criminal Appeal.

## CHAPTER V

**I**T will be readily understood that the qualities which contribute to success at the Bar are very largely the quintessence of everything that makes for success in life. It stands to reason that clear-headedness, the gift of logic, brilliant oratory, and that inestimable faculty of being able to put one's finger on the crucial point of a case, are virtues that will bring a man to the top whatever his occupation may be.

There is no doubt that the profession of the law must necessarily attract many men of outstanding intellect, and, looking back over my forty years at the Bar, and reviewing in my mind the long procession of eminent men I have known, I have no hesitation whatever in describing Sir Charles Russell, afterwards Lord Russell of Killowen, as the greatest lawyer I have ever met.

His powers of advocacy were magical. I could never understand how a jury could find a verdict against him. He electrified the jury, the Judge, and everybody else with whom he came in contact. His handsome face, his fine figure, his sonorous and clear voice, all helped to contribute to his wonderful power of capturing the judgment of any jury he appeared before.

I think his defence of Parnell was his finest effort. I was in court when he delivered his final

## FORTY YEARS AT THE BAR

speech and peroration. The tears were coursing down his cheeks, his emotion was intense, but, of course, in this case Russell was speaking more as a patriotic Irishman than as an advocate.

He told me that he never expected to get an acquittal of the unfortunate Mrs. Maybrick, who was tried for murder by the late Justice FitzJames Stephen, then in the decline of his health and vigour, but I think he had a great deal to do in obtaining the reprieve which afterwards followed.

I once appeared against him in the Probate Court, with Inderwick, K.C., leading me. It was a will suit, our case being that the testator was so hopeless a dipsomaniac that he was not mentally in a condition to make a will. We called several medical witnesses to prove this fact. When it came to Russell's turn to address the jury he kept us all spellbound by his wonderful eloquence, and actually went so far as to declare that instead of being a dipsomaniac the testator was almost a teetotaller. I was sitting behind him. This proved too much for my gravity and I involuntarily laughed aloud. Sir Charles paused in his address, turned round to me, and beetling his brows upon me said :

“If you interrupt me again, young man, I will have you taken out of court.”

Sir Charles won his case.

I do not think he was as great a success when he held the office of Great Justiciar as he was at the Bar, and he certainly was not in the House, but as Chief Justice he quickly discarded the manner, deportment, and temperament of an advocate, and became grave, impartial, and most fair.



## FORTY YEARS AT THE BAR

But I always went in great fear of him, why, I cannot say. I used to sing annually at concerts organised by the Law Clerks Association. One year whilst so singing, Lord Russell was then presiding as Chief Justice. I evidently pleased him, because as I left the stage he beckoned to me to sit next to him and asked me if I would take refreshment with him, which I did, but I was glad to get away because I could hardly sum up courage to speak to him.

I once appeared before Lord Russell and a special jury (Kemp, K.C., leading me) for a *demi-mondaine* who was suing the executors of her former admirer for a large sum of money. Kemp did not like his case, and left me to conduct it. I told the jury to totally disregard the evidence of the lady unless they found it was substantially corroborated.

“So easy,” said I, “to bring an action against a man, when death prevented him from giving his version of the case.”

This evidently pleased the Chief. He said that I had the fine quality of being frank, summed up strongly in my favour, and I got a verdict.

One Christmas I happened to be in Monte Carlo at the same time as the Chief Justice, Charles Gill, Lord Carson, Hume-Williams (now Sir Ellis Hume-Williams), Macaskie, Drake (both deceased), and Rufus Isaacs. We were all staying at the Metropole Hotel.

All my companions chaffed me at my fear of the Chief Justice. If he went up in the lift I used to wait for the next one. Dining, I would place myself in such a position that he would not see me, and this went on successfully until New Year's Day, when Carson,

## FORTY YEARS AT THE BAR

Gill, and myself were walking to the Casino to have a mild flutter. I was walking ahead and thinking that Gill and Carson were at my heels, I held the swing doors for them to pass in. I was horrified to find it was the Lord Chief Justice himself. There we stood face to face !

"I wish you," said I, "a happy New Year, Chief Justice. I am glad to see you looking so well."

He turned his piercing eyes on me and said :

"Is that a polite speech or a sincere speech ? "

"A sincere speech," I replied.

"Well," said the Chief Justice, "that is very singular. I was tempted by the fine weather to come by steamer to Genoa and thence here, but I am suffering now from phlebitis, which causes me great pain in my leg ! "

Now, if I had been paid a hundred pounds, I could not have said another word. I was finished. So he gazed at me for a few moments and finding I said nothing passed on.

Carson and Gill followed on his heels, and Carson said, in his best Irish brogue :

"Whaaat has the Chief been taaalking to you about ? "

"Why," I answered, "he told me that he is suffering great pain in his leg."

"Shure," Carson retorted, "and this is the man ye were so frightened about. He has nothing better to talk about than his —— leg ! "

His death in the following year caused the greatest grief to the Bench, the whole profession of the law, and to the general public.

To my mind he was as great an advocate in his

## FORTY YEARS AT THE BAR

day as Erskine was in his. I have often wondered which of these two great advocates, when pitted against each other, would have been "top dog."

Mr. Barry O'Brien has written a short history of his life, but, with great respect to him, there was ample scope for him to have written a much longer and more ambitious biography of the life of this great man.

The great passion of his life was to see Home Rule for Ireland, but, alas ! he never lived to see Ireland a Free State as it now is.

Sir Edward Clarke, who is, I am glad to say, still about and well, was a different type of advocate altogether. He had none of the striking eloquence of Russell, but was a counsel with the most wonderful clearness of vision, and powers of persuasion ; in fact, he was the personification to my mind, not of the "*fortiter in re*," but of the "*suaviter in modo*."

He and Charles Russell were pitted against each other in nearly all the big cases of the day, and it used to be delightful to hear their respective powers of advocacy in sharp conflict. Russell seemed generally to be briefed on the right side, as he much more frequently won than lost.

Clarke, when younger, was a most delightful accession to our Bar Mess dinners. He knew only one song, which consisted (to the best of my memory) of at least twenty verses. He used to stand up at the dining-table, always refused a piano obligato, assume a serious air, and sing a variety of the well-known song of the day : "Just before the battle,

## FORTY YEARS AT THE BAR

Mother." I can only remember one short stanza of his song :

"Just before the battle, Mother,  
And I was sitting in your back yard,  
I much prefer the laurels which grow there  
Than the laurels of the war."

He would sing this song with an air of the greatest gravity, and nobody ever got tired of hearing it. It was dreadful ! And however loud the laughter, nothing shook his imperturbability.

I think, and I am fortified in this view by his own Memoirs, that he had not an unbounded admiration for Sir Henry Hawkins, but I never heard any angry conflict between them at any time.

His son Percival, now one of the counsel for the Treasury, is the personification of his father in appearance, without, indeed, his father's celebrated whiskers, but with a good deal of his *bonhomie* and gifts.

I was briefed many years ago in a divorce suit where the petitioner claimed £10,000 damages from the co-respondent. But cold shivers afflicted me when I found that Clarke and Lockwood were respectively briefed for the respondent and co-respondent. I immediately gave up the claim for damages, thinking I should have a much greater chance of obtaining a decree *nisi* against such redoubtable champions, without saddling my case with this enormous claim for damages, which I myself thought was not only grossly exaggerated but ill-founded. The late Lord Hannen presided, and a special jury had been summoned.

"It's all very well," said Lockwood. "for my

## FORTY YEARS AT THE BAR

learned friend to throw overboard this monstrous claim for damages hoping to gain some tactical advantage by so doing, but when I have cross-examined his client, you will quickly appreciate that my friend himself must have realised how hopeless such a claim was."

As I anticipated, I was "squashed flat," and the petition was dismissed. I did my best, as I always try to, but what with Clarke's stern cross-examination of the petitioner, and Lockwood's deadly satire, I was completely "snuffed out."

Of all the delightful personalities I have met during my long career at the Bar, Carson stands undoubtedly first. I knew him when he first came to England from Dublin, where he practised in Green Street successfully for some years. I was with him and against him many times.

Carson had the power of turning on a rich Irish brogue if he so desired whilst addressing a jury, or speaking in the purest English when addressing judges or the Court of Appeal.

Strikingly handsome, tall, erect, a wonderful *raconteur*, he soon gained great popularity and acquired a large practice in London.

One of his earliest efforts was his brilliant cross-examination of the unfortunate Oscar Wilde. I heard the cross-examination conducted without heat but with such force that it entirely demolished the unhappy man. I saw Carson afterwards in the robing-room and he asked me to give him a cigarette. I held his hand whilst he was lighting it, and remarked :

"Why, your hand is stone cold ! How is that ?"



LORD CARSON



## FORTY YEARS AT THE BAR

"I have been conducting this case suffering great personal discomfort and pain," he said.

No one would have suspected it, by the brilliant manner in which he dealt with the thrusts of Wilde, parried them, and gave fatal counter-thrusts.

In due course he became Solicitor-General. He told me one day that he thought this was partly due to the fact that he had quite early on his arrival in England been invited to a reception at Lord Londonderry's, where the Prime Minister, then Lord Salisbury, was present. He told me that his noble host's major-domo had come to him and said :

"His lordship has directed me to tell you to go and talk to the Prime Minister."

He conversed with the Prime Minister for some twenty minutes, no doubt displaying his fascinating native wit, quick powers of repartee, delightful mannerisms and stories. The next day Carson met Lord Londonderry at the Carlton Club. The noble lord asked him what right he had to monopolise the Prime Minister for twenty minutes.

"Shure," said Carson, "your own major-domo told me to."

"I think not," said Lord Londonderry, "but I will enquire."

The following day they met again at the Carlton Club, and the noble lord said to Carson : "I owe you an apology, because I have now ascertained that although I had requested my major-domo to tell Lord Castlereagh to go and talk to the Prime Minister, he, by mistake, came to you !"

Of such is the Kingdom of Heaven !



## FORTY YEARS AT THE BAR

One Christmas, at Monte Carlo, I remember asking the first Lady Carson to give me a number at the roulette table to back. She gave me number eight, eight turned up, and I was paid thirty-five *louis*. For fear that I should lose the money back I immediately left the rooms and went to buy her an immense box of chocolates. I returned with it to the rooms, and as I approached the table where I had left Carson and his wife I heard a shout of "*Le voilà !*" and a number of fingers were pointed at me. I naturally wondered, and asked the meaning of this singular attention. A chorus of voices replied : " You never picked up the original *louis* that you had placed on number eight," which no doubt was the fact. It appears it had been claimed by some lady sitting at the table. I applied to *L'Inspecteur* and duly received a further thirty-five *louis* !

One morning Carson came to my room at the Metropole (where, as I have already mentioned, a number of well-known lawyers used to stay) and asked me if I would do him a service.

" I had two hundred and fifty pounds in bank-notes," he said, " which I left on the mantelpiece in my dressing-room to go to my bath. When I came back they had gone. I want you, like a good fellow, to go and stop the numbers (which he gave me) at the Casino, at the Railway Station, and at Smith's the bankers."

I did so and paid the cabman a *louis*.

I did not see Carson until lunch-time, when I found him at Ciro's. I was about to ask him whether he had any news of his £250 when Lady Carson held up a warning finger and I desisted. After lunch I asked

## FORTY YEARS AT THE BAR

her her reason for stopping me speaking to her husband on the subject. She said : " Ned afterwards found them in the pocket of his pyjamas ! "

About twenty-five years afterwards I met Carson (he was then living in Thanet) in the train going up to town. He seemed depressed. His usual sparkling conversation was missing, and I asked him what was the matter.

" I am suffering from neurasthenia," he told me. I could not make him laugh, but determined to do so. So I said to him suddenly : " Carson, you owe me a *louis*."

" Do I ? " replied Carson. " What for ? "

" Why," said I, " don't you remember you sent me rushing all round Monte Carlo stopping the numbers of your bank-notes which you afterwards found in the trousers of your pyjamas ? I engaged a *fiacre* to go round to the various places and paid a *louis*. I will thank you for it ! "

Carson became gravely reflective for a few moments and said : " May I ask you how long ago this was ? "

" Oh, many years ago," I replied.

" How many ? " said he.

" Over twenty years."

" Shure, then," said Carson, " I plead the Statute of Limitations."

This sent both of us into fits of laughter, which, of course, was my object, and Carson for the rest of the journey became bright and vivacious.

A few years ago I was a guest at some trade association dinner at Birchington, having promised to make a speech. Sitting next to me was a well-dressed and

## FORTY YEARS AT THE BAR

agreeable local tradesman. He asked me if I knew Carson.

“Yes,” I replied.

“So do I,” said my neighbour. “Isn’t he a delightful fellow?”

“How do you know him?” I asked.

“I shaves him,” was the ingenuous reply.

From the moment that Home Rule for Ireland was introduced by Gladstone, Carson became its most bitter and vigorous opponent. He loved his country, and would have nothing to do with Ireland being separated from the United Kingdom. He has been severely attacked for the uncompromising attitude he adopted in furtherance of his life’s desire not to see Ulster separated from England, and he has succeeded.

I have often read with contempt vindictive attacks upon the methods which he adopted, but one thing is perfectly transparent and clear—that Carson was always actuated by the purest patriotism, his love for his King and country, and for the Union Jack.

When I was called to the Bar one of the judges I most greatly admired was Lord Coleridge, Chief Justice of England, who had been spitefully described, I think it was by Disraeli, as a “silver-tongued mediocrity.”

He presided over his court with the greatest dignity, and I only once heard him bearded by counsel. This was during the course of a *cause célèbre*, when a Colonel of His Majesty’s Army was charged with chicanery at the card-table. The Prince of Wales, afterwards King Edward VII, sat upon

## FORTY YEARS AT THE BAR

the Bench. His Royal Highness was called into the witness box and treated with the greatest deference by the Lord Chief Justice and by all the counsel engaged in the case. His evidence was of a colourless nature, and he was just about to leave the box when the foreman of the jury said : " May we put a question to His Royal Highness ? "

Lord Coleridge's eyes nearly started out of his head with astonishment. The idea of a commoner actually cross-examining the Heir-Apparent was too much for him !

" What is your question, Sir ? " asked the Lord Chief Justice.

" We want to know whether His Royal Highness saw the plaintiff cheat ? "

" Well, Sir," said Lord Coleridge to the Prince, " perhaps it would be as well if you would answer that question."

" No, I did not," replied the Prince, leaving the witness box and resuming his seat on the Bench.

This was about the only sensible question which anyone put to the Prince whilst giving evidence.

On the Bench and in the court was a galaxy of fashion, including many ladies of title and the " Chief's " wife, Lady Coleridge. Charles Gill put a question to a witness.

" I do not see the point of that question," said the Lord Chief Justice.

" Ah," retorted Gill, " but the jury will," and the case went on. Next morning the Lord Chief Justice said to Gill :

" It has been reported to me that yesterday you suggested the jury would appreciate the point of a

## FORTY YEARS AT THE BAR

question you put and that I did not. A most unfortunate observation ! ”

Gill, with the pleasantest smile in the world, rose, said : “ Sorry,” bowed to the Judge and sat down.

Had the Lord Chief Justice been advised by anybody to take this singular course, the day after the incident happened ? I never knew the Lord Chief Justice in any way to suffer from deafness.

I remarked to Asquith, the late Lord Oxford and Asquith, who was briefed in the case : “ Is not Gill inimitable ? ”

“ No,” said Asquith, “ I do not think he is. All he has done is to put the Judge’s back up ! ”

## CHAPTER VI

**O**F all the incorrigible optimists I ever met recommend me to "The Man who broke the Bank at Monte Carlo." I should say that he was not only one of the most successful gamblers of all time, but also a man of a highly fascinating personality. Like the Ancient Mariner immortalised by Coleridge, he would hold his victims with his glittering eye and to their wondering ears a tale unfold.

He could

"Dip into the future, as far as human eye could see,  
See the vision of the world, and all the wonder  
there would be,"

and I regret to say that it was this poetic partiality of his, allied to a rather unfortunate propensity for making a little profit at the same time, that landed him in the dock before our redoubtable friend Sir Henry Hawkins, who, as the famous song testified, had "a fust class name"—not altogether of the kind admired by the erring ones.

It was in the year 1893, not so many years after I had been called to the Bar, that I made the acquaintance of "The Man who broke the Bank at Monte Carlo," although the Crown did not indict him by that name. Instead, he made his appearance in court as Charles Wells, the trouble being a little matter of £30,000 which he had obtained from

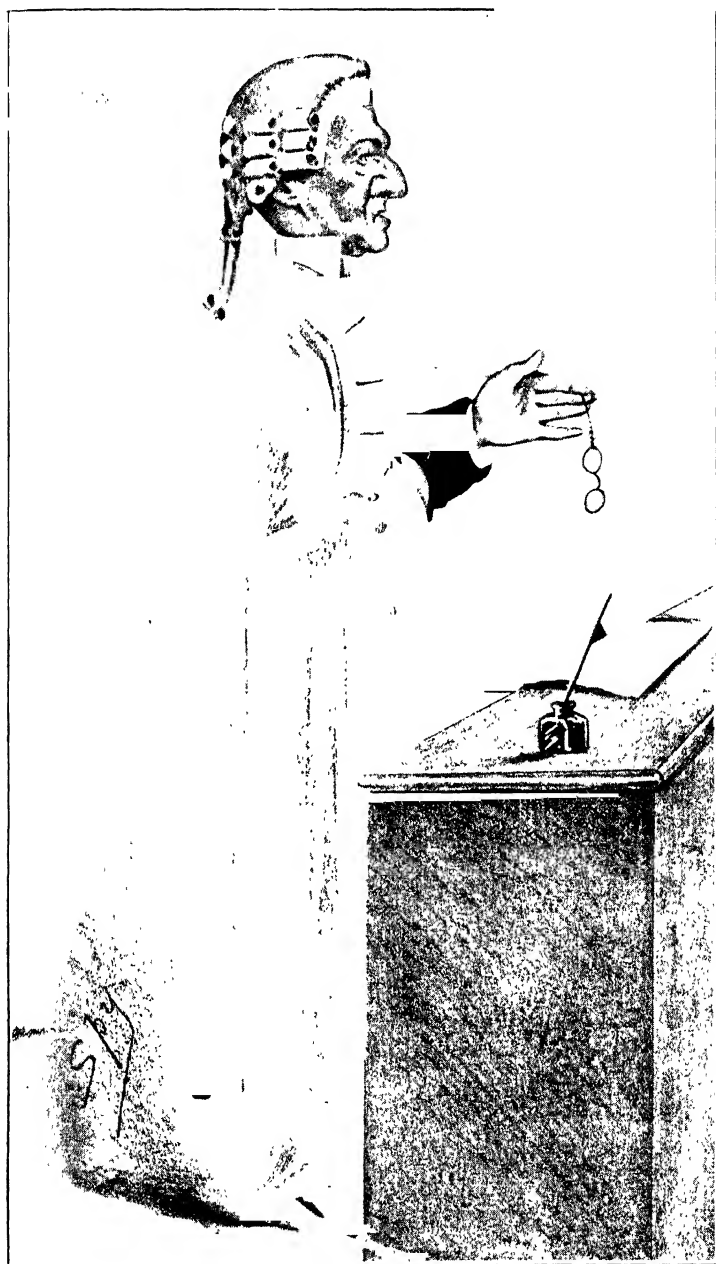
## FORTY YEARS AT THE BAR

various people on the pretext that he would make their fortune.

Wells was a great inventor—in more ways than one—and on this particular occasion he had discovered, so he said, a process whereby a steamer's coal consumption could be reduced by one-half. For all I know, there might have been something in it, but he had invented so many things, most of which had turned out failures, that one could be forgiven for doubting the value of any of them. At all events, with his coal-saving scheme he induced several wealthy people, including Miss Phillimore, the sister of the celebrated Lord of Appeal, to part with quite a considerable sum of money. In time, of course, it dawned upon the people most intimately concerned that they had made a bad bargain, with the result that Monte Carlo Wells, as we all knew him, had to answer for his sins.

I had the honour of appearing for the defence, against me being two formidable antagonists in the persons of Charles Gill and Guy Stephenson. On the Bench was Hawkins, so it will be seen that there was quite a strong caste for this piquant little comedy. Not the least interesting of the *dramatis personæ* was Wells himself, short, dapper, quick and alert in his manner, incessantly watchful and clever.

The Old Bailey trial opened in quite an intriguing manner. I happened to be sitting in court at a table which could be overlooked by the prisoner from the dock, and while listening intently to Gill's opening speech I was mechanically sketching on a piece of blotting-paper in front of me. The solicitor instructing me tapped me on the shoulder.



LORD BRAMPTON





## FORTY YEARS AT THE BAR

"Mr. Wells wants to speak to you," he said.

I went to the dock.

"I did not brief you and pay you a substantial sum of money," my client informed me, "so that you might be engaged in amusing yourself in sketching while counsel for the prosecution is opening his case. Kindly attend to what Mr. Gill is saying."

Tut-tut!

"I can never think more profoundly," I said, somewhat taken aback, "than when I am sketching," but my client would have none of that. Airily did he wave me aside and tell me to get on with my work.

Hawkins had no intention of permitting me to subject Miss Phillimore to any more cross-examination than was absolutely necessary. The poor lady was dreadfully nervous and, of course, she did not want it blazoned forth that she had been a victim of a specious adventurer. I knew quite well that Hawkins was waiting the chance to pounce upon me, so when Miss Phillimore entered the witness box I asked her just one question.

"Miss Phillimore," I said, "I am only going to put one question to you, and you need not answer that unless you want to."

Interrupted Hawkins: "What is your question, Mr. Abinger?"

"Miss Phillimore, is the loss of this money serious in regard to your fortune?"

"I would rather not answer that question," she replied.

"I have nothing further to ask you," I then said. Of course, it was well known that this distinguished family held large estates in South Kensington, and

## FORTY YEARS AT THE BAR

probably if Miss Phillimore had answered my question she would have replied : " No."

We then got on with the case. After various people had told the Court all about Wells and his inventions, including a gentleman from the Patent Office who told of a hundred and ninety-two different inventions that the prisoner had registered in the course of seven years—he said nothing about verbal inventions, which no doubt ran into millions—I called a German mechanic named Esham, who in guttural English, after looking at a drawing of the coal-saving apparatus, leaned over the witness box and confidentially informed the Judge :

" Dis is dot gomblete ; dere vas doo zylinders on de tob."

Hawkins suggested that he should explain a little more fully, whereupon he blossomed out into the most bewildering technicalities in a German accent that you could cut with a knife. I said to Gill, after about half an hour of it : " I have no doubt my learned friend fully understands," which made Gill look at me rather crossly.

Our witness went on to explain that " It vos a goot mazheen," and as the examination proceeded it came out that the German had made many models of the prisoner's invention. In fact, as he confessed to the convulsed Court, he had " a gartloat vool o' dem " at home. Then, before I could stop him, he launched out into ' zylinders, bistons, granks,' and all sorts of other strange devices.

More humorous interludes were provided by the prisoner. He fairly danced up and down the dock in his excitement all the time the German was giving

## FORTY YEARS AT THE BAR

his evidence. Occasionally he interrupted his peregrinations by dashing off notes which were handed to me. So that he could get these passed over, he used to attract the attention of the usher standing in front of the dock by tickling his bald head with the feathered end of a quill pen !

The trouble which confronted me was to convince the Court that this coal-saving affair did really act, and I don't mind confessing now that I did not fancy the job. I don't know anything about mechanics now, and if anything I knew less then, so it was a case of needs must when the devil drives. I had to rely on the Teutonic gentleman in the box who, to the best of his ability, told Hawkins all about it.

"It went along, I suppose?" enquired the Judge resignedly.

"It dit, by lord."

"Can you explain the invention scientifically?" asked Hawkins, even more wearily.

"Yes, by lord."

"Well, I don't mind," said the Judge as I gave him an appealing look. Whereupon there came a perfect avalanche which sent everyone into shrieks of laughter.

"Vonce ubon a dime dere vas a sdeamship called de *Vlier*," after which the witness branched off into awesome technicalities about "zylinders, gemmicals," and how "de ordinary grank, he go up tree inch, and de sdeam go into de gemmical, and den he goase oud and—dat is all I can exblain."

However, it was enough and more. I thought that the jury might reasonably have some doubts of the prisoner's claims to actually being an inventor, so I

## FORTY YEARS AT THE BAR

called evidence to the fact that among his innumerable other activities, other than breaking the bank at Monte Carlo and inducing people to invest money in his companies, he had brought out a new sardine tin-opener and a musical skipping-rope. I asked the Judge if I might give a demonstration of the latter in court, being, as I have said before, a little younger than I am now.

"You can do anything you like, Mr. Abinger," replied Hawkins with a deep sigh.

Being a little doubtful whether that might get the prisoner acquitted, I made an appeal to the enemy.

"What on earth can I do?" I asked Charlie Gill. "I haven't got a dog's chance."

"Keep the Judge in a good temper," replied Gill.

So when it came for me to address the jury I got up and told a story of which even the prisoner himself approved. I said that his victims must have believed that he was an honest and needy inventor, and that the people who had parted with money to him must have been possessed of the idea that they would benefit him, humanity at large, and also make a nice little fortune for themselves. Also, I said, but for the fact that Wells had achieved immense notoriety by breaking the bank at Monte Carlo five days in succession, and thus achieving the reputation of being a wild gambler—with other people's money—he would never have stood in the dock.

"It was quite true," I informed the now highly interested jury, whose mouths were beginning to open wide, "that Mr. Wells had won forty thousand pounds at Monte Carlo in five days. Why, if it got abroad in the Temple that eight thousand pounds

## FORTY YEARS AT THE BAR

could be won in a day at Monte Carlo there would at once be an exodus, and wigs and gowns might be bought for an old song." (Loud laughter.)

THE JUDGE: "You must remember that there are four thousand barristers at eight thousand pounds a day, Mr. Abinger. Be careful what you are saying. That would soon break the bank at Monte Carlo." (More mirth.)

I begged his lordship's pardon and proceeded with the suggestion that if Wells had not been a gambler afflicted with inventive mania he would not have been charged at all.

"I want to tell your lordship," I went on in my most seductive manner, "that the prisoner is a man of a wonderful brain. He has won forty thousand pounds in five days, and anyone in possession of this very simple system of his can make eight thousand pounds a day as long as they like.

"My learned friends," lowering my voice impressively, "can make eight thousand pounds a day, the gentlemen of the jury can make eight thousand pounds a day, and my lord can make quickly such a vast sum by this exceedingly simple system that he will never need to worry about money again. And now," I continued, "I am going to tell you what this system is!"

A deep abiding silence, everyone breathless with expectation, the jury gaping at me as though their dreams had at last come true. Wealth, everlasting wealth.

Satisfied that the audience in that part of the court needed no further attention, I turned to the Judge. His eyes were wide open. All weariness had

## FORTY YEARS AT THE BAR

gone, and he was looking at me firmly resolved to lose not a word of what I was going to say.

“ Now, gentlemen of the jury,” said I, “ this is the system ! ”

Then I paused, apparently thought deeply, and then, with great emphasis ejaculated : “ No, gentlemen of the jury, I will not tell you this system. If I were to do so, you might desert your wives and families, my learned friends might sell their wigs and gowns, and even my lord who adorns the Bench might suddenly desert it to make a vast sum of money. No, gentlemen,” I said loudly, “ I will not tell you.”

“ Ah ! ” said Hawkins, “ then we will adjourn.”

I did not lunch in the Bar Mess that day. There suddenly came an invitation to eat with the Sheriffs, and I was thoroughly enjoying their luxurious hospitality when I happened to catch sight of Hawkins, still in his scarlet robes, beckoning to me with an imperious forefinger. I went up and stood behind his chair and said respectfully : “ Yes, Judge ? ”

“ Do you know that system ? ” looking me full in the face.

Like George Washington, I could not tell a lie.

“ No, Judge,” I replied.

“ I thought not,” said Hawkins disgustedly. “ You may go back to your seat.”

I had been hoping to get the prisoner off with a light sentence, but I am very much afraid that the Judge had not got over his disappointment. He did not say anything to me about the matter, but he sent poor Wells to penal servitude for eight years,

## FORTY YEARS AT THE BAR

and as he did so gave me a look which told me quite as plainly as any words could do that it does not pay to raise false hopes.

It was a sadly disillusioned man who went to Dartmoor to serve his punishment, and I don't suppose anyone will blame me for saying that I felt very sorry for him. He had an exceedingly pretty French wife, whom he had married abroad in the hey-day of his fame. She, good soul, stuck to him through thick and thin. He used to write her the most affectionate letters, beginning something like this :

“ My own dear darling wife,

“ How I long to kiss your ruby lips and sigh for the days when we shall come together. You are the light of my life, and as long as I live I shall be your passionate and devoted lover,” etc. etc., all of which, no doubt, caused a certain amount of amusement to the prison officials who were compelled to read through the *billet-doux*. Nevertheless, the old gentleman gave them no trouble, and if his inventive ability and the ambitious schemes he had for relieving the monotony of prison life were just a little worrying to the Governor, at any rate he meant well.

He never came my way again. The next time he got in trouble—another invention that went wrong—he briefed Richard Muir to defend him. On this occasion, in company with an unfrocked clergyman whom he had met in prison, he set about beguiling unwary people with a life-saving apparatus, which brought him in a few hundred pounds and then landed him for another term of penal servitude.

“ The Man who broke the Bank at Monte Carlo ”



## FORTY YEARS AT THE BAR

died only three or four years ago, "broke" in the fullest sense of the word. However, he lived his life, and I don't suppose he ever regretted it.

This is another amusing little story, which might be termed "The Downfall of Benjamin Binns." I must class Benjamin, along with Monte Carlo Wells, as being one of the most ingenious individuals I have ever met. His principal asset in life was chronic synovitis (water on the knee), and the manner in which he succeeded in getting a comfortable living out of his ailment forcibly brought home to me the truth of that old saying that one half the world does not know how the other half lives.

Benjamin's *modus operandi*, like that of many other great men, was the quintessence of simplicity. He would take a stroll through the West End of London, carefully select a substantial-looking doormat, and trip over it. His screams of agony would bring a crowd hurrying around and a doctor would be sent for. Benjamin would be taken home in a cab, where, in a remarkably short space of time, he would develop symptoms of synovitis. A sharp little solicitor would take up the case, and the tradesman whose mat had been the cause of all the trouble would consult his insurance company, with the result that eventually Benjamin would receive substantial compensation.

His great speciality was cellar-flaps. The number of these he fell over must have run into hundreds. Never once did his agonised yells fail to bring the crowd, then the police, and ultimately the ambulance, once more would synovitis manifest itself, again

## FORTY YEARS AT THE BAR

would the little solicitor get to work, with the result that still another substantial sum found its way into Benjamin's ever-open pocket.

He was known to wait for the time when a brewer's carman was delivering barrels of beer by means of a rope stretched across the pavement. Blithely tripping along, Benjamin managed to go head over heels and, of course, the brewers always paid.

What beautiful simplicity ! He might have gone on for ever and in course of time amassed a fortune with the aid of his synovitic knee. But, alas and alack ! he took the pitcher to the well once too often.

One fine summer's morning Benjamin, on business bent, took his usual dive over the brewer's rope, and was duly carried home in great pain. In the afternoon he sallied forth again, this time choosing a defective coco-nut mat at one of the draper's shops. In each instance did he play his little part, screams of pain, police, hospital, claim on insurance company. Unfortunately for Benjamin both the brewer and the draper happened to be insured in the same company ! Judge of the astonishment of that company when they received claims upon them for two accidents on the one day to the same individual, who in each instance had been diagnosed by a doctor as having contracted synovitis in consequence ! Who could blame the company if they thought the matter worth a little more investigation ?

Private detectives took up the case, and eventually poor Benjamin was arrested and charged with obtaining various sums of money by false pretences. It was alleged that for some time past he had been

## FORTY YEARS AT THE BAR

making not less than £600 a year by his highly ingenious device.

It fell upon me to defend him at the Central Criminal Court, and I don't mind confessing that I had a most difficult task. Benjamin himself, by the look of him, did not inspire much confidence. In addressing the jury, I said :

“ With my lord's permission, I will tell you something about myself. I have been three times wrecked at sea. I have been in a hotel fire. I have been in innumerable cab accidents. I have been in three railway accidents ; indeed, I have been more unfortunate than Mr. Benjamin Binns——”

The Recorder, Sir Forrest Fulton, intervening : “ May I ask the learned counsel whether he got any compensation for his various misfortunes ? ”

Now, it was well known at the time that I had been concerned in these adventures, as it was also common knowledge that I had received nothing worth calling compensation. So I said to his lordship, somewhat taken aback :

“ My lord, this is a very awkward question to answer, and I would rather not.”

“ Ah ! ” remarked the Judge, casting a significant look at the jury, “ but your client did, Mr. Abinger, and we have been told to the tune of some six hundred pounds a year ! ”

A roar of laughter went up, and poor old Benjamin's fate was sealed. In a remarkably short space of time the jury came back with a verdict of guilty, and the Recorder sent him for eighteen months to a place where synovitis, cellar-flaps, and doormats were conspicuous by their absence.

## CHAPTER VII

**W**HILE I am all for the dignity of the law, I am one of the last people in the world to cavil at a certain amount of mirth being imparted into a case by the presiding judge or by counsel. After all, humour is the saving grace of our life on this earth.

I must confess, however, that I have often wondered how some judges when trying murder cases can give way to the temptation of cracking a more or less obvious joke when there is a man in the dock on trial for his life. I remember years ago Sir Charles Russell, that great advocate, defending a man for murdering a barmaid. The case came before Mr. Justice Grantham, who was one of the kindest-hearted men in the world, but could not resist a joke and made one. Russell, with his eyes flashing, turned to the Judge and said in a loud emphatic voice :

“ My lord, pray, this is a murder trial.”

Grantham became very grave and remained so during the rest of the trial.

Mr. Justice Darling, in the course of the *Stinie Morrison* case, when I was denouncing some of the witnesses for the prosecution as liars, remarked that : “ King David had said that all men were liars,” which caused some merriment in court.

I have known many other instances of jokes of this sort. I once defended a man named Joe King

## FORTY YEARS AT THE BAR

for murder at the Old Bailey. I had no particular defence to put forward, and the prisoner was found guilty and sentenced to death. At the luncheon table of the Bar Mess sat that brilliant Irishman, Gerry Geoghegan, who noticed that I appeared upset and could not eat my lunch. Remarked Gerry to me :

“ I do not see why you should worry, although I confess it is no joe-king matter for your client ! ”

King was the most calm and collected criminal I have ever defended. When the Clerk of Arraignment asked him the usual question as to whether he had anything to say why sentence of death should not be passed upon him, he was industriously engaged in adjusting his necktie and buttoning his waistcoat into the correct position. All he did was to look up, flick a speck of dust off his coat with his thumb and middle finger, and say quite casually : “ No, thank you.”

This cold-blooded scoundrel had been charged with the murder of his infant son, whom he had taken by the heels and killed by dashing his head against a brick wall. Witnesses were called to testify that they had afterwards seen him eating his dinner with his hands stained with the blood of his little child !

However, to get back to the lighter and more delectable side of the law. One of the very best stories I have to tell concerns a counsel of diminutive stature pleading before a judge whose name I cannot recall, when the following colloquy took place :

THE JUDGE : “ I cannot see you, Mr.— Will you kindly stand up ? ”

COUNSEL : “ I am standing up, my lord.”

## FORTY YEARS AT THE BAR

THE JUDGE : " Then I am afraid I must trouble you to stand on your seat."

COUNSEL : " I am standing on the seat, my lord."

THE JUDGE : " Then you had better add a few law reports and stand on them."

COUNSEL : " My lord, I placed six law reports on the seat and am at present standing upon them ! "

The late Mr. Justice Field became very deaf towards the end of his career, and to make him hear, one had to shout out one's argument. One day a counsel appeared before Hawkins and began bawling at him at the very top of his voice.

HAWKINS : " I will trouble you, Mr. — not to shout at *me* like that."

COUNSEL : " I beg your lordship's pardon, but I have just finished arguing a case before Mr. Justice Field ! "

I myself appeared in an action before Mr. Justice R. S. Wright, now deceased. Tom Bullen was briefed on the other side. Now, Bullen was of immense stature with a voice well in proportion to his bulk. He made a rather prolonged and chipping attack upon me personally. I stood this for some time, but at last losing patience I rose and asked the Judge to request Bullen to attack my case and not me. Wright, who was a most kind-hearted man, said :

" Yes, Mr. Bullen, I don't think you need say anything more about your learned friend ; he may be rather thin-skinned."

Bullen in his best breezy manner :

" What, my lord ! my learned friend thin-skinned ? Why, he has a hide like a hippopotamus ! "

## FORTY YEARS AT THE BAR

MYSELF: "Well, if I have the hide of a hippopotamus, my learned friend has the figure of one!"

Poor Fred Lowe, K.C., afterwards Mr. Justice Lowe, who died a very short time after his elevation to the Bench, had a fine John Bull temperament and manner when practising at the Bar. I remember being against him one day in an action at the Mayor's Court. To my great surprise Lowe started his case by making a rather severe onslaught upon myself.

When the Court adjourned for lunch I went across to him and asked him why he had gone for me before I had even opened my mouth. He replied: "Ah! you have the reputation of going hammer and tongs for your opponent, so I thought I would be first in the field!"

Lewis Glyn, who took silk late in life, was one of the most remarkable men I ever met. He was the acknowledged leader of the Mayor's Court, and as soon as an action was commenced in that ancient, but now, alas! semi-defunct court, there used to be a race between the solicitors for the plaintiff and the defendant to retain his services, and in ninety-nine cases out of a hundred whoever got him won his case.

He was a witty and good-tempered man, and his powers of persuasion were, with a jury, irresistible. Practically the whole panel of jurymen in the City knew him and enjoyed his breezy way of conducting his cases.

Glyn would rarely, if ever, accept a brief in the Law Courts, and certainly never in a criminal court. At last, when very young, I was briefed against him. The solicitor told me not to be frightened of him but to "stick up to him." It was an action brought by

## FORTY YEARS AT THE BAR

Glyn's clients against a limited company to compel them to place the plaintiff's name, he being a shareholder, on the register of the company. Glyn had absolutely no case, as there was abundant authority to the effect that a shareholder could not compel a limited liability company to register him.

I told the jury so. Glyn passed me a note to the effect that my speech was being taken down in shorthand and would be sent to the Lord Chancellor! This terrified me for the moment, but another barrister told me that Glyn was simply "pulling my leg." At all events he got the jury to disagree! I went to a Divisional Court and a new trial was ordered. On this occasion the jury was actually coaxed by Glyn to find for the plaintiff! Again I went to the court above, and again the judges ordered a new trial.

The third trial came before the late Sir Charles Hall, then Recorder of London, a very strong and able Judge. Glyn started addressing the jury. Sir Charles stopped him, saying: "You have no case at all, Mr. Glyn, and I shall tell the jury so."

Glyn, seeing the game was up, bowed. Judgment was then entered for the defendant. This otherwise uninteresting case shows the enormous power Glyn exercised over a jury in the Mayor's Court. But most, if not all Glyn's power and irresistible advocacy seemed to disappear when he wore a silk gown and practised in the Law Courts. He appeared depressed and bored, no doubt missing the old familiar surroundings, and shortly after he retired from practice and went to reside on his estate in the north of England.

I once caught Hawkins napping, but only once.



## FORTY YEARS AT THE BAR

I appeared before him in an action he was trying without a jury, and said to him :

“ Your lordship is trying this question of fact as if a judge and jury were trying it, but *without the same power as a jury*——”

Hawkins (nettled) : “ Will you kindly tell me what powers a jury have which *I* do not possess ? ”

Now this was precisely what I was waiting for, so I replied quite cheerfully :

“ Why, your lordship can't disagree ! ”

Hawkins seemed amused and remained in a good temper for the rest of the day.

Sir Frank Lockwood told me a capital story which at any rate possesses the merit of not being recorded anywhere else. He had defended Charlie Peace, the notorious murderer and burglar, at Leeds Assizes, but in spite of Lockwood's efforts his client was sentenced to death and executed.

Some little time after the execution, his clerk announced to him that a party of ladies, all in deep mourning, desired to see him.

“ Who are they ? ” enquired Lockwood.

“ Why, Sir,” said the clerk, “ Charlie Peace's widow, his aunts, his daughter, and other near relatives.”

“ Good gracious ! ” exclaimed Lockwood dismayed. “ What am I to say to them ? However, show them in.”

The ladies were introduced into Lockwood's chambers and with dismal faces were asked to be seated.

“ Ladies,” began Lockwood, “ I assure you that I did my best to——”



MR. JUSTICE R. S. WRIGHT



## FORTY YEARS AT THE BAR

“ I am afraid, Sir,” said the widow, “ you mistake the object of our visit. Please accept our heartiest thanks for the very satisfactory result of the trial. We are greatly relieved and comforted ! ”

Poor Lockwood breathed again.

I heard a good story of Lockwood playing in a cricket match with J. O. Murphy, K.C. Murphy was a great advocate, and in my young days appeared in many *causes célèbres*, including the Parnell Commission. He was a man of immense stature and weighed, I should think, well over twenty stones.

“ We must make some fresh rules applicable to Murphy before starting the match,” Lockwood said. “ If any part of his front be struck by the ball, it must be ‘ leg before wicket,’ but if the ball strikes his stern, then it must be scored ‘ a wide ’ ! ”

Murphy for years was standing counsel for the London General Omnibus Company, and displayed the greatest ability in unmasking exaggerated or fraudulent claims. He led me occasionally in this sort of action, and I still remember the kindness and consideration with which he treated me and his various juniors.

Lord Russell of Killowen when not practising in the courts, or presiding, as he afterwards did, with dignity as Lord Chief Justice of England, seemed to unbend and was the most amiable, good-humoured, and witty of men. I remember he was once asked by a lady what was the maximum punishment for bigamy. The Lord Chief Justice replied, without any hesitation : “ Two mothers-in-law ! ”

I once furtively watched him playing roulette at Monte Carlo and staking substantial amounts. To my

## FORTY YEARS AT THE BAR

dismay he suddenly turned round and saw me. I bolted. He called me back and said : " What are you afraid of ? "

I replied : " I do not like that you, Chief Justice, should catch me in these gaming-rooms."

" Now," he said, " look here, young man. If you think that you are going to become a successful advocate by going to your chambers, thence to the library, and thence to the Law Courts, you are very greatly mistaken. This place is a liberal education, particularly if you take stock of the expressions, ejaculations, and appearances of the players when winning or losing their money."

I thanked his lordship for his kindly advice. I had an *arrière pensée* after I left him, which I need not express !

Russell was a magnificent after-dinner speaker. Why he never achieved the great success in the House that he did everywhere else I never could understand, except that it appears to be the common fate of many brilliant lawyers, including Lord Reading.

A constant visitor to his house once told me that when the Lord Chief Justice arrived home in the evening during the winter months, not only would he take off his boots but also his socks, and warm his feet before the fire !

Lord Darling was also very particular about his feet. I had occasion one morning to go into his lordship's private room before he took his seat on the Bench. It was a fine day and dry. The judge's clerk was engaged in taking off his master's boots and replacing them by another pair.

## FORTY YEARS AT THE BAR

“ May I enquire,” said I, “ why your lordship does this ? ”

“ Yes,” replied Darling, not in the least annoyed by my pertinent question. “ In walking there always remains a certain amount of moisture in the soles of the boot which is apt to give rise to chills and colds.”

The Judge seems to have been quite right to take all precautions against taking chills. I had the good fortune to get a glimpse of him one recent day, and was delighted to see him so fit and well in spite of his advanced age.

I read with much enjoyment his delightful little book, *Scintillæ Juris*, as I suppose did everybody else who appreciates literature. Lord Darling is a great littérateur, and he used to love when in court making apt quotations from his great store of knowledge.

He was in the same chambers as Carson—in Dr. Johnson’s Buildings. Carson once remarked to me : “ Darling will do well as a judge if only he would stop joking ! ”

He *did* do well as a judge and never stopped joking. He had a most wonderful grasp of facts, but the temptation to crack a joke was irresistible, and he never missed the opportunity during the whole period that he was on the Bench.

I have read many of his speeches in the House of Lords but cannot call to mind many witty or humorous efforts on the part of the noble lord, but that may be due to the fact that he finds the atmosphere of the Painted Chamber somewhat oppressive.

A counsel, now recently deceased, had the unfortunate habit of leaving out the necessary aspirates

## FORTY YEARS AT THE BAR

or putting them in unnecessarily. He was appearing in an action before Darling, and addressed the jury somewhat in this way :

“ My client’s ’orse was being driven along the Old Kent Road when the ’orse was so severely injured that it ’ad to be destroyed. This ’orse cost my client forty pounds.”

“ Stop a bit,” said Darling. “ What was the height of this animal ? ”

“ About thirteen ’ands, my lord.”

“ Well,” said Darling, who was no doubt suffering torments from this massacre of the King’s English, “ will you during the rest of the case please call it a pony.”

This same learned counsel was one day addressing the Court of Appeal when the Master of the Rolls interrupted him, saying : “ Yes, Mr. —, but what do you say about the case of *Smith v. Robinson* ? ”

Mr. — had probably never heard of the case, but got out of the dilemma by saying : “ I did not come here to split ’airs, my lord.”

This extraordinary misplacement of the aspirates as far as I know is a form of cockneyism and is unknown in any other part of the country. Carlyle wrote : “ The cockney accent is not a dialect. It is a disease,” which is probably the truest thing that could have been said about the Londoner’s worst failing.

Mr. Justice Wright was a most delightful man, and in my experience the only judge who refused to be knighted when appointed to the Bench. It was only some considerable time afterwards that he could be induced to accept that honour.

## FORTY YEARS AT THE BAR

He had a fine seat in Hampshire, where he caused to be exhibited notices "Trespassers will *not* be prosecuted." The Judge had a profound contempt for the notices so familiar to everyone, "Trespassers *will* be prosecuted," knowing well that no prosecution would lie unless such trespasser had committed malicious damage or was trespassing in pursuit of game. (Lord Justice Bowen once described a notice "Trespassers will be prosecuted" as a "wooden lie.")

Wright was very Early Victorian in his ways. I have attended his chambers several times in consultation with him. He was nearly always in shirt sleeves, smoking a beloved pipe, his room so full of smoke that he appeared somewhat dimly, being partly concealed by this smoke screen.

He used to walk to the Temple, and afterwards, when appointed a judge, to the Law Courts, always with his pipe in his mouth. It was a great blow to the country and to the Bar when he was snatched away from us, long before his time, having been seized with a most painful malady which he bore with the greatest patience and courage. All the counsel now alive who had the honour of his acquaintance, or who have had the privilege of pleading before him, must bear in their hearts the kindest memory of him.

He tried the action of *Wilkinson v. Downton*, which is to-day the leading case in this particular branch of the law, and decided that a plaintiff can recover damages for mental anguish, without sustaining any actual physical injury.

My client, the defendant, was a licensed victualler.



## FORTY YEARS AT THE BAR

On Derby Day the plaintiff's husband had gone to Epsom by horse and trap. Later in the day Mr. Downton, the defendant, merely as a practical joke, went round to Mrs. Wilkinson and told her that her husband had met with an accident and was lying at an inn. He intimated that Mrs. Wilkinson should immediately proceed with blankets, bandages, and other appliances and bring her husband home. She departed, and on arrival at the inn mentioned obtained no information about her husband nor news of any accident. She returned home and found her husband already at home safe and sound. As she afterwards swore in the witness box, the shock was so great that her hair went white during the night, and she was still suffering from the shock.

I submitted the action would not lie. The facts disclosed no course of action. It could not be an action for fraud because there was no intent to fraud. No action for personal injuries would lie because she had suffered no personal injury, but merely shock. I raised many other defences, but Wright swept them all aside, and, giving judgment for the plaintiff, said that everybody in this country was entitled to their peace of mind, and if anybody interfered with that peace of mind in his judgment it gave rise to a cause for action.

The jury found a verdict for the plaintiff for £250 on this direction, and there was no appeal.

Our judges have always insisted on counsel addressing them in pure English and avoiding all slang expressions. I myself have been more than once rebuked. I once called for a witness, before Hawkins, who could not be found. Hawkins complained. I

## FORTY YEARS AT THE BAR

remarked: "It is very difficult, my lord, to keep witnesses up to the scratch."

"Up to the *what*?" said Hawkins, putting on an astonished look.

"Scratch, my lord," replied your humble servant.

"What is that?" asked Hawkins, frowning at me.

"I beg your lordship's pardon," I explained. "I mean to keep my witness in court."

"That is better," said the Judge. "I now understand you!"

On another occasion, whilst addressing Lord Chief Justice Coleridge, I had to describe the fate of several companies which were then defunct.

"And what," said Lord Coleridge to me, "became of the Hansard Union Company?"

"It came to grief," I replied.

The Lord Chief Justice, looking at me sternly: "What do you mean? Please do not use slang in my court."

"I beg your lordship's pardon. I mean—went into liquidation."

"I must insist," said the Judge, "on pure English being spoken in my court and not slang."

Lord Esher, the great Master of the Rolls, was a most picturesque personality, always faultlessly dressed. He had, however, a weakness for wearing rings on his well-shaped hands, although he never looked anything but the embodiment of a dignified judge.

He insisted upon counsel pronouncing Latin with correct quantities, and using the antipenultimate in pronouncing English words, and in this connection once administered to me a somewhat severe rebuke.

## FORTY YEARS AT THE BAR

It was an extradition case. I was saying that my client had been *extradited*, when he stopped me.

M. R. "I presume you mean *extradited*."

MYSELF: "No, my lord, with submission I mean *extradited*."

M. R.: "In my court you will be good enough to pronounce that word *extradited*."

I could only bow my acknowledgments and comply with his lordship's order.

On another occasion a counsel, wishing to put a classical turn to "a slip of the pen," used the Latin "*Lapsus calami*."

M. R. (wincing visibly): "Good gracious! I assume you mean *calami*?"

Counsel apologised, and later on used the Latin expression, "*Jus Marite*."

M. R. (shuddering): "Do call that '*Jus Marite*.'"

Counsel during the rest of his argument made no more Latin quotations.

Lord Esher would never tolerate anything like "side" at the Bar. A certain counsel very fond of horse-riding was commencing to make an analogy to the proposition then being argued, and started:

"Now, my lord, take my horse——"

"Take your boots," said the M. R.

LEARNED COUNSEL: "If your lordship pleases," and proceeded with his analogy, substituting boots for horse.

There is a beautiful marble mausoleum with a fine effigy of Lord and Lady Esher in Esher churchyard, and many a time, when I lived close by, I used on a Sunday to stroll to this churchyard and look at the noble features of this great judge and his lady



MR. FRANK LOCKWOOD, Q.C.



## FORTY YEARS AT THE BAR

and recall the happy years when I had the privilege of appearing before him.

Mr. Justice Cave was the very antithesis of Lord Esher. He was a bluff outspoken man, and had no time for high-falutin talk. I remember, as an example, a young counsel fresh from Oxford, possessed of great refinement of language and accent, addressing his lordship in a Bill of Sale case, as follows :

“ And now, m'lud, I will address your ludship on the question of the ‘ picteurs ’ which appear in the Schedule of the Bill of Sale.”

“ Pic what ? ” enquired the astonished Judge.

“ Picteur,” said counsel.

CAVE : “ How do you spell it ? ”

COUNSEL : “ P-i-c, pic—t-u-r-e, tuer.”

“ Oh,” said the Judge, “ I understand, why you mean ‘ pickcher ’ ! ”

When counsel were arguing before him his almost universal method of showing his disapproval of the argument was to observe laconically : “ That won't do.” And it never did.

I have painful reasons for remembering the last time I saw Hawkins. It was just before the Long Vacation. The Judge had retired from the Bench and had been honoured with a peerage.

I had an appointment with a firm of tailors in Regent Street to be “ tried on ” for a suit of holiday clothes. I was in the tailor's punctual to the moment. Right at the end of a very long shop I noticed an old gentleman sitting with his back towards me, chatting away with the only assistant in the place that I could see.

## FORTY YEARS AT THE BAR

I waited and waited, but still the conversation went on between the old gentleman and the assistant. I pulled out my watch—it was a quarter to three, and I had a conference fixed for three o'clock—but still I went on waiting until at last my patience became exhausted, and I called out loudly :

“ When you have finished chatting with that old gentleman, perhaps you will be good enough to attend to me.”

The old gentleman turned round, and to my horror I found it was the redoubtable Lord Brampton himself. He got up immediately, and walked towards me.

“ I beg your lordship’s pardon,” I said. “ I had no idea it was you, or I certainly should not have allowed my impatience to have betrayed me into such a piece of impertinence as to describe you as an old gentleman.”

Lord Brampton stopped. He put on his gold pince-nez, had a thorough good look at me, and then strode out of the shop, without saying a word ! One can imagine how thoroughly crushed I felt.

As a matter of fact, I had a great liking and admiration for Hawkins. I had received nothing but kindness from him all the years I had appeared before him, and I cannot call to mind one angry word he ever addressed to me. I felt inclined to run after him and again apologise for what must have appeared to him as a want of good manners on my part, but he looked so annoyed that I could not sum up my courage to do so. As it turned out, that was the last I saw of him.

## CHAPTER VIII

✓ HERE is drama in every murder, and it has been my fate to be associated with a great many cases which have aroused tremendous public interest. Particularly was this so in the affair which is still known as the Muswell Hill Murder. If the circumstances surrounding it do not call for extended reference, at any rate the dramatic events which took place in the dock when the men charged with the crime were placed on their trial, are more than sufficient justification for the narration of this story.

There were two men accused, Albert Milsom and Henry Fowler. With the late Mr. Woodfall, afterwards Judge of the Westminster County Court, I appeared for the defence of Fowler, a desperate, blood-thirsty ruffian, the absolute embodiment of Bill Sykes. Milsom, his companion in arms, also looked what he was, a cunning, cringing little criminal capable of any misdeed if it could be safely carried out. In this instance, I have no doubt, he had been led into the murder by Fowler, as was afterwards more or less proved by the confession he, Milsom, made in a cowardly attempt to save his neck.

Now, before I begin to relate the necessary details of this celebrated case, I would like to mention that it was one of those instances where counsel for the prisoner are placed in the invidious position of



## FORTY YEARS AT THE BAR

defending a man who has already confessed. In the case of Milsom and Fowler, the position we were in was rendered doubly difficult by the fact that Milsom had made a confession, implicating Fowler, and throwing upon Mr. Woodfall and myself the onus of trying to defend a man on a capital charge who had not only admitted his share in the crime itself, but had also been "split" upon by his cowardly confederate.

In circumstances such as these the task of counsel is indeed an unenviable one. Very rarely indeed will the presiding Judge accept a plea of guilty when a man's life is at stake. In this particular instance we had to go through with the farce of trying to obtain an acquittal for a man who had already reconciled himself to ending his life on the gallows.

I must confess that we were greatly at a loss how to deal with the matter. The instructions we had received were not so perfect as they might have been. The only hope we had of an acquittal was an alibi, and Fowler himself, a callous brute utterly indifferent to the value of his own life, had not even taken the trouble to inform his solicitor as to where he had been on the night of the murder.

"You had better go and ask Fowler where he was," said Mr. Woodfall. "Unless he can give us something to go on we haven't got a dog's chance."

It is in moments such as these that a counsel's lot, like that of Gilbert & Sullivan's policeman, is indeed an unhappy one. I knew, and everyone else in the court knew, that we were expected to play the legal farce of trying to set up an alibi with absolutely nothing to substantiate it. I had to go to the dock

## FORTY YEARS AT THE BAR

and suggest to this self-confessed murderer that he had been at a lodging-house, or in the company of his sweetheart, or, in fact, anywhere but at Muswell Hill on the night of the murder. If he, on his part, could think of any probable story which would give him a million to one chance of saving his neck, then his solicitor would be instructed to call the necessary witnesses and set up the alibi which we all knew had not the faintest hope of success. However, in accordance with my leader's directions, I went to the dock.

I knew, of course, of the relations between the two men. One, a loathsome little beast mortally afraid of what might happen to him, had tried to turn Queen's evidence, and as he sat in the dock separated from the other man by a couple of powerful warders, you could see the fear in his eyes. Fowler, a formidable figure of a man, sat glowering straight ahead.

"Fowler," I said (in a whisper so that Milsom might not hear), "where were you on the night of the murder?"

"Nowheres," he growled.

"Now, listen to me," I said. "Do you want to be hanged?"

"No."

"If you will tell Mr. Woodfall where you were on the night of the murder," I went on, "we will communicate with the solicitor and if possible set up an alibi. Take your time. I will return in a few minutes and you shall then tell me," and I went back to my seat.

I returned to the dock some ten minutes later and I again repeated my question to Fowler: "Will you tell me where you were on the night of the murder?"

## FORTY YEARS AT THE BAR

“ Nowheres.”

“ Well,” I said, “ your reticence places us in a very awkward position.” Upon which he replied :

“ It is werry kind of you two gentlemen, but I ain’t going to tell any b—— lies not for nobody.”

In the year 1896 there lived in a roomy, comfortable house standing in its own grounds at Tetherdown, a part of Muswell Hill, a rich old man named Henry Smith, who locally possessed the reputation of being a miser. Perhaps it is doing the old gentleman’s memory an injustice to describe him so, because, if he lived very quietly and employed no servants beyond a gardener, everybody liked him and respected his desire for a secluded life. He had lived in his house, which was known as Muswell Lodge, since 1872, and spent his time mainly in his green-houses, which were the joy of his lonely life. His gardener, Webber, was the only other person about the place. For all his seventy-nine years, Mr. Smith was a pretty powerful man, and on several occasions when burglars had attempted to enter his house he refused to be intimidated, and uncompromisingly declined to have anyone else in the place. By way of precaution he had several spring-guns hidden around the approaches of the house.

Locally, it was fairly common knowledge that he kept a considerable sum of money at Muswell Lodge. No great stretch of imagination is required that news of this hoard must have come to the knowledge of his murderers.

On the night of February 13, 1896, the gardener,

## FORTY YEARS AT THE BAR

Webber, made his usual round of the premises, set the spring-guns, and then went home. He came back later in the evening to attend to the boiler which heated the greenhouses and went off again without noticing anything to attract his attention. But it is worthy of note that only an hour previous a nurseryman named Stanbrook, living in Tetherdown Lane, who had walked to the front of his garden, saw a mysterious figure of a man standing opposite Mr. Smith's house. The stranger immediately made off, whereupon Stanbrook thought the circumstances sufficiently suspicious to ascertain if Mr. Smith's gate had been tampered with. But he also noticed nothing wrong, and certainly no one could blame him for not suspecting the possibility of the terrible crime that was about to take place.

The morning broke on a cold and dreary day. A heavy mist hung over the northern heights of London, the rain dripped from the leafless trees, while deep, damp depression everywhere told its winter's tale.

Night was breaking into day when Webber set out for Muswell Lodge to commence his day's work. He arrived at his destination about a quarter to seven, and there received the first hint of the tragic affair. The front gate was locked, in itself an unusual circumstance, for Mr. Smith was generally up before Webber arrived and usually opened the gate himself. Webber possessed a duplicate key, and after letting himself in went to the front door to see if Mr. Smith had thrown the house keys out of the window for him to pick up, as he sometimes did when he did not feel well enough to come downstairs.

## FORTY YEARS AT THE BAR

But there were no keys to be seen, and Webber, his stolid nature beginning to realise that there was something wrong, banged the knocker on the door. There was no reply. Again and again he knocked, and all that answered him were the echoes from inside the house.

The gardener walked round to the back, and there he saw something which made his heart go pit-a-pat. The flower-pots which had stood on the sill of the kitchen window had been removed, and there were marks on the framework to indicate that the window had been forced and afterwards closed. Startled, not knowing who was about, Webber quickly looked around and then discovered that the wire of one of the spring-guns had been removed.

The now thoroughly terrified man began to realise that something had happened. He peered inside the kitchen window and there, to his horror, he saw a body lying on the floor. Crying "Murder," he ran out of the grounds, called upon Mr. Stanbrook and another neighbour, told them what had happened, and brought them hurrying back. All three men again looked in the kitchen window, recognized the huddled mass on the floor as Mr. Smith, and immediately set about making their way in. They discovered the side-door open, a further proof of tragedy, and rushing into the kitchen, found it to be all too true that the old man had been murdered. He lay in his nightshirt, while his head and the upper part of his body were wrapped in a red cloth. The three men at once undid it, only to find that the head had been tightly tied up in a towel. As if this had not been sufficient to smother his dying breath, the



LORD COCKBURN



## FORTY YEARS AT THE BAR

murderers had stuffed his mouth full of old rags, while a duster had also been tied around his neck.

But that was not all. There were terrible wounds on the head, showing that the old man had been beaten to death with almost incredible ferocity. All around were signs of the terrible struggle which had taken place. There were splashes of blood all over the floor, even on the dead man's feet, and it required no particular intelligence to realise that he had made a desperate fight for life.

The police were at once called, and the doctor who came with them had no difficulty in deciding that the old man had first of all been ferociously battered about the head with some heavy blunt instrument and then, while unconscious, finally done to death by asphyxiation and strangulation.

The detective officers took up the case and quickly came to the conclusion that professional burglars had been at work. In the sodden garden there were found the footprints of two men who had walked over the flower-beds and passed out of the gate opening in Coldfall Wood. The windows of Muswell Lodge also revealed traces of the professional cracksman. There were jemmy marks on the windows of the drawing-room, showing that an attempt had been made to enter there, while small traces were found on the pantry window. Drawing blank at both these places the two burglars had evidently found the kitchen window more accessible.

Except for the kitchen the rooms in the lower part of the house appeared to have been undisturbed. In a basket in the pantry the police found some valuable jewellery which had evidently been over-



## FORTY YEARS AT THE BAR

looked. Upstairs, however, it was plainly evident that the robbers had ransacked the rooms. The safe had been opened and all the money and valuables it contained had disappeared. The old man's bed had been partly pulled to pieces in an attempt to find the hoard he was reputed to possess.

It was a matter of no great difficulty to reconstruct the crime. There could be little or no doubt that the dead man, hearing the noise of the kitchen window being forced, had courageously come downstairs and there, in the kitchen, been attacked by the intruders. That he was at once savagely beaten with a jemmy, battered into unconsciousness, and then tied up as he was found, was incontrovertible. In the kitchen the police found a dark lantern, a box of matches which struck without making much noise, and a tobacco box. That lantern was fated to become the noose that hanged Milsom and Fowler.

Outwardly it appeared to be a deep impenetrable mystery. For seven weeks the detective officers engaged in the case, headed by Chief Inspector Marshall, worked night and day trying to lay hands on the murderers. The principal clue in their possession was that of a £10 note known to have been in Mr. Smith's safe about the time of the crime. It did not turn up at the Bank of England until the end of March, but the moment it did the C.I.D. men busied themselves in tracing it back.

Luck was on their side. An East End publican furnished the police with an accurate description of the person who had cashed it with him, with the result that the police scoured London to find a man named Henry Fowler.

## FORTY YEARS AT THE BAR

But Fowler happened to be missing from his usual haunts, and the only hope of finding him lay in watching another ex-convict with whom he habitually associated, a burglar who called himself Albert Milsom.

Then began one of the finest pieces of detective work we have ever known, rivalling the mythical exploits of our old friend Sherlock Holmes. There appeared one day in the squalid Kentish Town street where Milsom lived a man and a boy who appeared to have nothing to do. The man lounged about all day while his youthful companion made the acquaintance of the other boys in the street, and especially that of Milsom's young brother-in-law, who lived in the same house as the suspected man.

The new arrival was evidently a boy of a mercenary turn of mind. He wanted to "swap" some of his belongings, especially a bull's-eye lantern, and showed it to Milsom's young brother-in-law.

"Why," exclaimed he, "it's mine!" at once pointing out several peculiarities about it. He knew it by its red and green glass slides, the latter of which had been cracked, while the wick, composed of flannelette, with an unmistakable pattern, also helped him to recognise the lantern he said he had lost some weeks previously.

In a very short space of time detectives were on the scene, but Milsom and Fowler quickly got wind of the danger and disappeared before they could be apprehended.

Up and down the country the police chased them for a long time. They were heard of at Liverpool and then at Manchester. They turned up in Cardiff,

## FORTY YEARS AT THE BAR

then in Newport, Bristol, and Southport. At Birmingham, evidently growing much frightened, they separated, Fowler going back to Bristol while Milsom returned to London. The latter individual did not stay long. He never attempted to go near his home, but managed to pick up his wife, and with their two children made his way to Bristol, where he once more got into touch with Fowler.

News came that they had joined a travelling show, but on Sunday, April 12, the police located them at Bath, and made preparations for the arrest. Detective Burrell, the clever young officer who had been responsible for the lantern ruse, recognised the two wanted men. Accompanied by a strong body of police he dashed into the house where Fowler and Milsom were staying. Detective-Inspector Nutkins, one of the officers of the party, immediately drew his revolver and ordered the fugitives to hold up their hands.

Milsom at once surrendered without a murmur, but the other man, Fowler, struggled like a madman to get away from Chief Inspector Marshall. He had been reclining upon a couch when the police burst into the room, but despite the efforts of half a dozen men to secure him he fought savagely for the better part of half an hour until, panting and completely exhausted, he was thrown on the floor and handcuffed. On the couch where he had been lying was discovered a fully loaded revolver, proving beyond all shadow of doubt that if the worst came to the worst he was prepared to sell his life dearly.

News of the arrest caused a tremendous public sensation, and after the prisoners had been taken

## FORTY YEARS AT THE BAR

back to London it began to dawn upon Milsom that his life had not long to run. The damning evidence elicited by Mr. Horace Ivory, who appeared for the prosecution, particularly that which was given by Milsom's youthful brother-in-law concerning the ownership of the lantern and how he had suddenly missed it, made Milsom realise as nothing else could have done that he had little or no hope of escaping the gallows. He sent for the police and made a confession in which, however, he was careful enough to exonerate himself. He blamed his accomplice Fowler for everything.

Events of an even more dramatic turn at once took place. Fowler heard of the confession, and attempted to commit suicide by strangling himself with a pocket-handkerchief. He was saved while on the point of death, and when he appeared in the dock at Highgate Police Court his pallid, listless appearance plainly revealed the seriousness of his plight. While a witness was graphically describing the appearance of the dead man he fainted in the dock, rallied for a second or two, and then fainted again. Milsom, the picture of abject cowardice and shame, cringed in the dock while the police read the confession he had made.

It was a long story, in which he said that he had nothing to do with the killing of Mr. Smith, and that he had waited outside keeping watch while Fowler had gone in to rob the old man. Fowler came back covered in blood, and when, horror stricken, he asked him what he had done, he replied : " It's all through you, you cur, for leaving a man on his own."

They had subsequently divided the money

## FORTY YEARS AT THE BAR

obtained from the house, after having a fierce argument, in which Fowler contemptuously told him that he did not deserve anything for trying to leave him in a hole. Then began the attempt to cover up their traces, culminating in the sensational arrest at Bath, when they had reached the end of their resources.

Fowler glared at his companion in the dock all the time Chief Inspector Marshall was repeating the confession, but he showed no signs of violence, and the police had no reason then to suspect the astounding events that were to transpire when the two men subsequently made their appearance at the Old Bailey.

It is interesting to note that in the confession Milsom informed the police that the weapons with which Mr. Smith had been done to death were buried in the garden of Muswell Lodge. Two chisels and two bradawls were unearthed, all four of them stained with blood. There seemed to be no doubt that both Fowler and Milsom had taken an active part in the murder, a theory which afterwards received corroboration when Fowler also made a confession in which he said that he had not committed the crime alone. He seemed to be bitterly vindictive against his companion, so much so that he stated if he went to the scaffold he would not go by himself.

Of the actual trial at the Old Bailey, presided over by Mr. Justice Hawkins, there is very little that need be said. We had no defence worth speaking of, and after Mr. Woodfall had done his best with the meagre material at his command, the Judge summed up. The jury went out to consider their verdict,

## FORTY YEARS AT THE BAR

while the Judge also left the court. There arose that hum of conversation which always manifests itself while a verdict is being awaited. In the meantime the prisoners sat in the dock scowling at each other.

Fowler, who had been brought into court that morning looking haggard and unkempt, seemed to have brightened up. Occasionally he smiled to himself in a satisfied sort of way while his companion in crime continually glanced nervously at him, no doubt wondering what was causing him such enjoyment. Nobody in the least suspected what was about to take place.

A big policeman who had been seated between Fowler and Milsom languidly rose to stretch himself. Like a flash of lightning Fowler's face underwent a dramatic change. With a roar of rage he made a savage leap at his accomplice's throat. There would have been no need for the hangman had not the gaoler made a rush at Fowler and hooked his left arm in his own. Fowler was already trying to strangle Milsom with his right hand, and for just a second or two, with his immense strength, it seemed that he would succeed.

The scene in the court was amazing. Everybody stood up on chairs and seats to see what was happening, while in the dock a mass of struggling men breathlessly fought with the maddened Fowler. The glass sides of the dock were smashed to atoms while, Fowler, with half a dozen men clinging to him, desperately fought to get hold of the man who lay cringing in a corner fearful of his life. Some of the warders dragged Milsom downstairs, and as he saw him go Fowler made another maniacal attempt to get

## FORTY YEARS AT THE BAR

at him. By a stupendous effort of strength he threw off the officers fighting with him, smashed some more glass, and looked for a moment as though he would escape from the dock and kill some of the people in court. Eight or nine warders and policemen threw him on the floor ; he got them off and again the fight was renewed. Something like a quarter of an hour elapsed before he could be overpowered. Then the officers took him down to the cells and kept him there until the jury came back with their verdict of guilty.

The two prisoners were indeed a pretty sight. Fowler, still breathing defiance, his clothing torn to pieces, looked murder at his terror-stricken accomplice. Fowler was heavily handcuffed and had four men around him. Not a word was said about the events that had just taken place.

In a dramatic silence which is always present when the verdict in a murder case is about to be given, the Clerk of Arraigns put the question to the foreman of the jury, who replied that both the prisoners had been found guilty.

Milsom, prior to the Judge passing sentence of death upon him, protested his innocence. Fowler, sneering savagely, mimicked him, protesting that he also had had nothing to do with the murder. Mr. Justice Hawkins then passed sentence of death and Milsom had been taken out of the dock when Fowler attempted to make a speech to the Judge. He said something about a couple of men serving a term of imprisonment for a burglary at Lewisham which, Fowler said, he had committed, and he wanted the matter put right before he went to the scaffold.

## FORTY YEARS AT THE BAR

However, nobody was in the mood to listen to this sort of thing after what had just transpired, and Fowler followed his companion to the cells below to await the day of execution.

In keeping with all the events of this astounding drama the authorities decided that there should be a triple hanging on the day that Fowler and Milsom were to expiate their crime. A man named Seaman, who had been convicted of a double murder in Whitechapel, was also awaiting the penalty of death. So far as I can recollect the case of this man was chiefly remarkable for the fact that Frederick Wensley, now, of course, the most famous detective in England, caught the murderer. Seaman had killed an old Jew named John Goodman Levy, in Varden Street, Whitechapel, and also his housekeeper, a woman named Annie Gale. Practically caught in the act, he was seen in the house of death and tried to make his escape over the adjoining roofs. A policeman named Richardson pluckily followed him, while in the street below Wensley waited in the expectation that the murderer would make a leap for his life. Jump he did, almost at Wensley's feet, when he was quickly secured and taken into custody.

The motive of the crime had been robbery, and to give the assassin his due he said to Wensley, when badly injured :

"Oh, don't trouble about me. I can go to the scaffold and swing for what I have done without fear. I don't value my life. I have made my bed and I must lie on it."

This, then, was the third man doomed to stand on the scaffold with Fowler and Milsom, and I am only



## FORTY YEARS AT THE BAR

relating in some little detail what took place because fifteen years later I was again concerned with a celebrated murder trial in which Wensley, then a detective-inspector, played a prominent part. This, of course, was the case of Stinie Morrison.

On the night when I drove to Leman Street police station to meet Sir Melville Macnaghten for the purpose of finding the constable who wanted to give me some information about the conversation that had taken place when Morrison had been brought into Leman Street, I discussed with Sir Melville, as we proceeded to the place in Whitechapel where we expected to see the man we wanted, famous murders of days gone by. The talk turned upon the Muswell Hill case of 1896.

Sir Melville told me that when Fowler, Milsom, and Seaman were about to be despatched to eternity, the executioner Billington was awaiting the signal to draw the bolt, Fowler suddenly said to the Governor :

“ May I say a word, Sir ? ”

“ Certainly,” replied the Governor, instructing one of the warders present to take the bag off Fowler’s head. It was then the custom—I do not think it is now—for a hood made of calico or some such material to be tied over the head of a man about to be hanged so that he should not be able to see anything of his surroundings.

When the bag was removed, the Governor said to Fowler, wondering what he could possibly have to say at such a moment :

“ Well, what have you to say, my man ? You must be very brief.”

“ This is the first time in my life,” said Fowler,

## FORTY YEARS AT THE BAR

smiling at the Governor as though he had not a care in the world, "that I have been a bloody penitent."

The hood was quickly replaced on his head and, as Sir Melville remarked to me while we sped along the streets of Whitechapel at midnight, all three men were dead two seconds later.

I think the incident is worthy of repetition, because it will show, as nothing else can do, that although Fowler was a murderer, a man who lived absolutely without fear of death, he was not without an appreciation of the humour of the situation in which he found himself at the finish. Of course, his knowledge of Christ and the Crucifixion was slightly mixed. Possibly, also, his companions in misfortune may have felt slightly annoyed, if they had known what was taking place, at such a man as Fowler taking it upon himself to make an analogy between his position and that of Christ and the two thieves. However, there it is, and I merely tell the story because it is in keeping with the drama which surrounded the case of the Muswell Hill miser from the very beginning.

## CHAPTER IX

**W**ITHIN the last generation the Bar has produced three men who can justifiably be described as great. The trio I have in mind consists of the Marquess of Reading, the Earl of Birkenhead, and Sir John Simon. They will go down to posterity as three of the most brilliant men of the twentieth century.

Many years ago I was passing along a corridor of the Law Courts when I noticed a crowd outside the Lord Chief Justice's Court. On enquiring the reason I was told that a young, almost unknown man, was keeping the Court spellbound with a most remarkable speech.

I went in, and there I saw Simon for the first time, addressing the Bench of judges. I saw a very young man with a half-winsome, half-appealing expression, with a fine eager face and bright eyes, talking to the Court in such a brilliant and confident manner as to leave me spellbound.

Simon had then, as he has now, a marvellous gift of expressing himself on the most intricate subject in the plainest and understandable language without any showy side-plays or metaphorical references. He has the most remarkable analytical mind of any man I have ever met in my long career. Take as an example the General Strike of 1926. His famous speech not only made it perfectly plain to the meanest

## FORTY YEARS AT THE BAR

understanding the real position of affairs, but also completely exposed the illegality of the whole movement. He clearly laid it down, as no Bench of judges could have done, that Messrs. Herbert Smith, A. J. Cook and their various satellites, were pursuing a course of action so plainly inimical to the security of the country that special legislation would be necessary to prevent a repetition of another similarly dangerous state of affairs.

What I like about Sir John Simon is the readiness with which he has placed his noble mind at the service of his fellow-subjects. That his principles rank before his interests is plainly demonstrated by his resignation of the great position of Home Secretary when he could not conscientiously support the policy of the Government as to conscription, which he thought was not in the best interests of the country.

Sir John's versatility is shown by his power to argue a case one day in the House of Lords, the next day at the Central Criminal Court. This ubiquity of his is well illustrated by his admirable defence of Lieutenant Malcolm in the famous trial which is a classic instance of how the "Unwritten Law" can be pleaded even in England.

I had the good fortune to be in court during the hearing of this interesting case, and I could not but admire the exquisite dexterity with which he cross-examined the witnesses for the Crown and the wonderfully persuasive manner in which he addressed the jury with that appealing voice and manner of his, resulting in the acquittal of his client.

Lieutenant Malcolm had shot dead a foreign

## FORTY YEARS AT THE BAR

adventurer who had attempted to wreck his marital happiness. The defence raised by Sir John Simon was that the dead man was also in possession of a pistol, and had been killed in attempting to get it out of a drawer. There had been a struggle, and in the course of it Lieutenant Malcolm had accidentally killed his enemy. I don't think Simon had any real doubt about the result. The Crown would have accepted a plea of guilty to manslaughter, but Simon insisted on the case going to the jury. He talked to them as I have never heard another man talk, putting it as plainly as words could show that it would be impossible to keep millions of men at the Front if any man should be convicted of murder in the circumstances which surrounded the case of Lieutenant Malcolm, and I, for one, rejoice to think that he persuaded the jury to accept the views he expressed.

He received for his effort in this very notable case a fee of a thousand guineas, and I think the money was well earned. Such an amount, is, of course, quite an exceptional one in a murder case. As a rule, counsel receive very small fees in defending a man for his life, which is one of the little ironies of the world. It is a well-hackneyed saying in the legal profession that "there is no money in the case," which is one of the reasons why so few of our brilliant men are seen in the criminal courts.

Lord Birkenhead, whose legal and parliamentary career has been even more dramatic than that of Sir John Simon, is an altogether different type of man. Tall, elegant, debonair, always admirably attired, he possesses great gifts of wit and satire which effectively used in the House quickly made

## FORTY YEARS AT THE BAR

him a success. At the Bar he dethroned in a remarkably short space of time many well-known "silks" older than himself until he stood pre-eminent, clearly marked out for the great office of Lord High Chancellor of England.

His speeches as reported in the House of Lords in some of the cases that came before him rank with the greatest efforts ever delivered in the Upper House. He has little or no regard for precedent when he thinks the precedents are bad law, and he has swept aside many cobwebbed absurdities which for centuries have bound the judges in the courts below.

One of the first cases in which F. E. Smith (as he then was) appeared in London was before the late W. Willis, Q.C., afterwards the County Court Judge. Willis, who by the way proposed me for the Bar, was a dear old gentleman, although he had a rather unfortunate habit of snubbing counsel who ventured to differ from him in his court. He knew nothing about F. E. Smith, and probably cared less, and when the future Lord Chancellor started to contradict some of his law he gave Smith a snubbing that should have silenced him for evermore. Suddenly "F. E." began to "let fly" in such a manner that everybody in the court sat aghast, including Willis himself. For the remainder of the case Willis became silent and abstracted. Not once did he venture to make any more remarks.

Lord Birkenhead, not satisfied with his labours in the House of Lords, and subsequently at the India Office, has found time to publish more than one book of surpassing interest to lawyers, and, indeed, to all those who enjoy reading the history of the great men

## FORTY YEARS AT THE BAR

who have lived and occupied distinguished positions on the English Bench.

If I have left my old friend Rufus Isaacs, now the Marquess of Reading, last of the great trio dealt with in this chapter, it is certainly not because I consider him in any way inferior to Sir John Simon and Lord Birkenhead. As a matter of fact, in my own mind I have no doubt that he is the most remarkable man of them all.

As I have before mentioned, I was at school with Rufus Isaacs when both he and I were quite young boys. I have watched his amazing career at the Bar, his becoming in turn Solicitor-General, Attorney-General, Lord Chief Justice of England, Envoy-Extraordinary to the United States of America, and, finally, greatest of all, Viceroy of India, the highest position which any subject of the British Crown can attain. It is quite unnecessary for me to say that any man who in his lifetime can by his own unaided efforts raise himself to offices such as these must indeed possess the most astounding gifts of mind and personality.

I once asked Rufus Isaacs to what he attributed his marvellous success. He thought for a moment or two and then said :

“The only thing I can tell you is that, firstly, I always feel well and in good spirits. And secondly, I seem to have an intuitive power of putting my finger on the crucial point in any case in which I am pleading and always keeping that point in mind throughout the trial. Beyond this I can really tell you nothing.”

But, of course, that was his innate modesty, which is one of the most noticeable virtues of his outstand-

## FORTY YEARS AT THE BAR

ing character. He possesses, for instance, a knowledge of finance second to no man in this world. If he has not made the great fortune which he should have done—and in this matter I am only guessing—it is because he has chosen to dedicate his talents to his country. The exalted office of Viceroy of India is only a post for a very rich man.

Discussing with him one day the men we have known at the Bar, I asked him who he considered to have been his most dangerous opponent. He answered without a moment's hesitation: "Sir Edward Clarke."

I remembered that Marshall Hall once told me that Rufus Isaacs was like a giant towering over all the rest of them, and I, for my part, unreservedly agreed with him. There never has been such a man for an all-round knowledge of law, allied to the most striking gifts of diplomacy and personal persuasiveness.

I believe it was on the advice of Mr. Justice Bigham (now Lord Mersey), who is still with us, that Rufus Isaacs took "silk." I know he had a most strenuous life as a junior. He told me that he not infrequently rose at four o'clock in the morning and worked until breakfast-time, and I remember that when he was about to take "silk" he felt very anxious about it, as he was then making a very handsome income as a "stuff."

In a very short time Rufus Isaacs became the avowed leader of the Commercial Court, his most formidable opponent then being Lawson Walton, afterwards Attorney-General. He was equally at home in the Court of Appeal, the House of Lords, and in the Criminal Courts. He led Richard Muir, then



## FORTY YEARS AT THE BAR

Senior Counsel to the Treasury, in the famous Seddon poisoning case, which was tried at the Old Bailey in 1912, and he also appeared for the prosecution when that famous financier Whitaker Wright had to appear at the Bar of Justice to explain the fraudulent balance sheets of the London & Globe Finance Corporation. It was in this latter case that Rufus Isaacs demonstrated his amazing knowledge of finance.

As is still remembered, Whitaker Wright was convicted and sentenced to a term of penal servitude, and his subsequent dramatic suicide while awaiting removal to prison caused one of the most staggering sensations of modern times. Rufus Isaacs told me he was greatly upset at the incident, the memory of which troubled him for a long time. He is naturally a kind-hearted man, and I think this is one of the reasons why he was always reluctant to appear in a criminal case. But when he did he always as a matter of course assumed command of it. Judges deferred to him, and not only in the Criminal Courts. He was habitually addressed by the judges as "Mr. Rufus," and particularly in the Court of Appeal, where he frequently appeared.

His immense patriotic services during the War are still remembered. In pursuance of his duty he often faced the perils of the Atlantic infested with submarines and mines. He told me on this last return home that he had never felt so relieved in his life as when he met the convoy waiting to bring him safely to port.

I remember saying to him years ago: "You will be Lord High Chancellor of England."

## FORTY YEARS AT THE BAR

“What about the religious part of it?” he asked me.

I reminded him that the Act of Settlement did not apply to Jews but only to Papists.

“Oh, you may be right,” said Rufus. “Nevertheless, I do not think I shall ever reach the Woolsack.”

In this prediction he turned out to be perfectly right, but I think the real reason was that a seat on the Bench, however high, did not greatly appeal to his restless nature. I doubt whether the office of Lord Chief Justice attracted him a great deal, and I certainly think that he did the wiser thing in first of all going to America at the most perilous period in our history, and then to India at a time when the whole Eastern world was seething with discontent.

I always thought that in politics he and Lloyd George together made one very clever man, and it is a very curious coincidence that although Lloyd George was possibly the best Prime Minister the country could have had during the Great War, so soon as Rufus Isaacs went to India Lloyd George's Coalition Ministry fell to pieces, as did the great Liberal Party.

He has always been a great friend of Lord Carson, who I know possesses the warmest regard for him. All the years I have known Rufus Isaacs I have never heard an unkind word escape his lips concerning anybody. He is easily the most tactful, diplomatic man of all my friends and acquaintances.

It is with no feeling of disrespect towards a good many more of my friends at the Bar that I venture to make mention of a man whom I consider to be one of the most eminent lawyers of his time. The person

## FORTY YEARS AT THE BAR

to whom I am referring is Sir Henry Dickens, the Common Serjeant of London. I have known him for over forty years, and I am therefore in a position to expiate upon his remarkable gifts. He is the quintessence of fairness, courtesy, and perspicacity. He may err slightly on the side of severity, but I do know that at heart no more humane judge ever sat on the Bench.

His profound forensic attainments, coupled with the fact that he was the son of the great Charles Dickens, always led me to believe that he would be appointed a Judge of the High Court, but for reasons which are still obscure he was passed over, receiving instead the Common Serjeantship. To be quite candid, he is completely wasted in such a position, and I could never understand why he did not receive the Judgeship to which he had such strong claims.

I was once a guest on a yacht with others years ago. Henry Dickens was also a guest, and I slept in a bunk in the same cabin that he had. Although there was no greater lover than myself of Charles Dickens, I never could sum up courage to refer to his father at all.

The yacht *en route* went to Dieppe, and we all sent cards to a distinguished Count and Countess. In due course we received an invitation to dinner at the château there. We tossed up whether we should go in blue or in evening dress. The toss decided we should go in blue. When we arrived at the château we were greeted by the Count, who was in evening clothes. He asked us to excuse him for a moment and reappeared in complete blue yachting suit!

We were introduced to the Countess, and Dickens,

## FORTY YEARS AT THE BAR

being the most distinguished guest, was given the place next to the Countess. We were waited upon by men-servants who wore white kid gloves, and were treated to a most sumptuous repast, during the course of which the Countess, to my intense surprise, said :

“ *Mon cher Monsieur Dickens, dites moi quelque chose de l'infortune Oscar ?* ”

I looked at Dickens—his face betrayed such an extraordinary air of consternation and surprise, becoming quite scarlet, that I nearly exploded with laughter. He made no reply.

Later, the Countess said to me in French :

“ What was the matter with Monsieur Dickens ? Why was he so surprised ? Why did he not answer my question ? ”

“ Madame la Comtesse,” I said, “ the question you put to him is not a topic of conversation discussed in England in the presence of ladies.”

“ Bah ! ” replied the Countess. “ You English, you are dreadful hypocrites. You are all courtesy and politeness in the presence of the ladies, but when, according to your customs, the ladies retire and the gentlemen remain to drink port wine, I have been told the conversation *est effrayant !* ”

When we took our leave the Countess said to Dickens :

“ Mon cher M. Dickens, when you come to Paris with Madame Dickens I hope you will do me the honour of coming to see me at my hotel in the Champs Elysées.”

Dickens turned to me a moment or two afterwards and said :

“ God forbid ! What a dreadful woman ! ”

## FORTY YEARS AT THE BAR

Sir Henry possesses the rare gift of summing up a case for the jury quite impartially, and it is almost impossible in the Court of Criminal Appeal to reverse any decision of his in law or by misdirection.

Not so long ago, in the Court of Criminal Appeal, I criticised my old friend to try to make out a misdirection. The Chief Justice, then, I think, Lord Trevethin, said: "Although you have sifted the summing up of the Common Serjeant with a powerful microscope, we shall find no suggestion in this direction. Your appeal will be dismissed."

Among the brilliant counsel who have practised at the Bar during my career, Sir Charles Gill deserves a leading place.

He was a strikingly handsome man, had a delightful manner, and could combine a deadly and searching cross-examination with the most courteous and polite manner. Eloquence he had none, but the short, pithy passages which went to make up his speeches were as successful with the jury, and perhaps more so, than the polished oratory and dramatic effect of Sir Charles Mathews.

Gill achieved what was probably the greatest success of any stuff-gownsmen when he won single-handed the remarkable case in which a man named Butterfield had published a libellous pamphlet concerning a well-known Member of Parliament, now long since deceased, and whose name does not greatly matter.

Gill, who defended Butterfield, set up a plea of justification. Sir Charles Russell, Charles Mathews, and Lionel Hart were briefed for the prosecution—a formidable trio for any one man to fight. The case

## FORTY YEARS AT THE BAR

was tried before the Recorder of London, then Sir Thomas Chambers, when Gill, then quite a young man, in spite of the enormous odds, obtained a triumphant verdict from the jury. The plea of justification was established and Butterfield was discharged, in a densely crowded court, amid great excitement and cheers which it was quite impossible to subdue. I have never witnessed such a scene before or since.

There were some very angry passages between Gill and Russell during the course of the case. As an example, Gill was addressing the jury in his most convincing manner when Russell yawned! Gill stopped and looked at him, and then, resuming his address to the jury, remarked :

“Did you notice my friend Sir Charles Russell yawn? He did not really *want* to yawn. That yawn was intended by him to convey the impression to you that my speech was prosy and colourless—in fact, sufficient to cause *you*, gentlemen of the jury, to yawn.”

Russell snapped out : “Don’t be vulgar as well as impudent!”

This was but one of several angry passages which passed between these two counsel during the trial. I think Gill in his triumph somewhat regretted some of the observations he had made to Russell, because a King’s Counsel, long since deceased, informed me that he had told Gill he ought to apologise to Sir Charles Russell. Gill said he was prepared to do so either by interview or by letter. When this was communicated to Sir Charles Russell the latter declined to accept any apology unless made publicly

## FORTY YEARS AT THE BAR

in court, with the result that no apology was made at all.

A very clever cartoon of Charles Gill appeared in *Vanity Fair*, by "Spy," the letterpress being, "May become Lord Chancellor or a police magistrate." "Spy" was wrong. Gill died without accepting an appointment of any description.

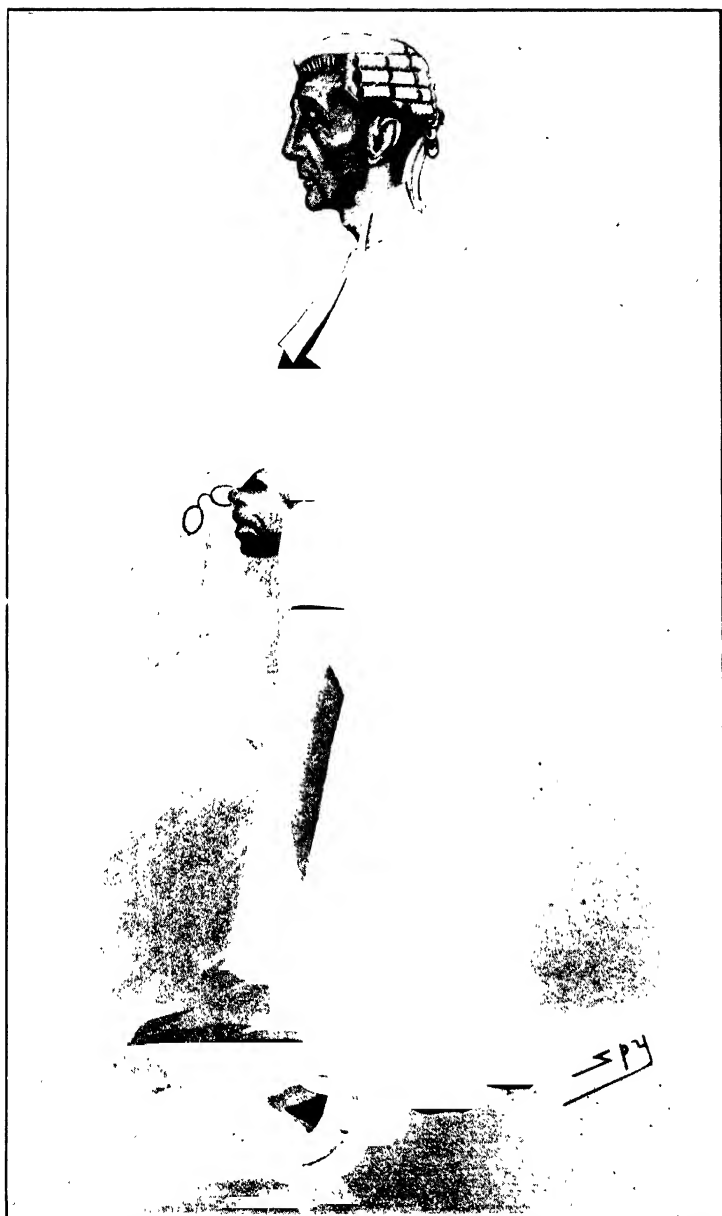
I asked him one day, when at the height of his fame, why he did not go into the House of Commons and afterwards become a Judge of the High Court. Gill's laconic reply was: "For the simple reason that it would not amuse me."

Towards his later days he would not be induced to accept a brief unless the nature of the case appealed to him. He took things rather leisurely, lived in a handsome house he had built in the peaceful seclusion of Birchington-on-Sea, where he took the greatest pleasure in his garden and other rustic amusements.

He used to ride with the harriers, and I can see him now, mounted on a stout cob, quietly cantering across country.

After his death I went to attend a sale of his effects to see if I could secure some memento or keepsake of my old friend. I went to his writing-table, which was open, and saw in it a signed photograph of his unfortunate client Adolf Beck, which I bought, and it is now in the very room in which I am writing these lines.

I once appeared with Gill as my leader in a prosecution against a well-known Rubber Company for selling to the London General Omnibus Company tyres manufactured in Germany as British-made rubber tyres.



SIR HENRY DICKENS





## FORTY YEARS AT THE BAR

In the preliminary stages of this prosecution at the Great Marlborough Street Police Court, Gill was handed a letter which he passed on to me to read. It was to this effect :

“The Kaiser commands the presence of Mr. Charles Gill at dinner this evening.”

He said : “I must go, and you will have to carry on,” which of course I did.

On the following day Gill appeared in court and I asked him to tell me how he fared.

“I had a most delightful evening,” he informed me. “The Kaiser, to my surprise, is a very small man, coming up to my shoulder, but brilliant and fascinating in his conversation. He took me aside and engaged me for a good twenty minutes in taking my views of the Guards’ Ragging Case, in which, as you know, I had been recently concerned.”

“I hope you did not tell him anything about the Guards and the discipline which obtained,” I said.

“My dear fellow,” replied Gill, “I told him just what I thought I would, although he cross-examined me very keenly on this very topic and on other subjects dealing with the constitution and discipline of the Guards. I found him one of the most interesting personalities I have ever talked to in my life. My invitation was no doubt sent to me in order that I might enlighten him into the inside facts of the ragging case, but I can assure you he did not get much information from me.”

Sir Edward Marshall Hall was a man who might very well have achieved anything he wanted. Nature had endowed him with commanding presence, a brilliant, persuasive tongue, and a most ubiquitous

## FORTY YEARS AT THE BAR

brain. For all that, he never quite rose to the heights that we all thought he would do, and I have no doubt the reason of it was the terrible tragedy that embittered his life just as he was on the threshold of his career.

No one in this world, unfortunately, knew more about it than I did, and in a sense he might very well have harboured ill-feeling towards me for the remainder of his life. However, there was a tacit understanding between us that the subject should never be referred to, and right up to the time of his greatly lamented death only a short time ago we were always on the best of terms.

The incident to which I refer was, of course, the death of his first wife in 1890, in circumstances that might very well have wrecked Marshall Hall's prospects at the Bar for good, for many people may have thought that he was largely to blame for the whole shocking affair.

Some time in 1889, Marshall Hall, who then was barely thirty and had not been "called" long, parted from his wife Grace Ethel. It would be entirely wrong of me to suggest that the young wife was altogether to blame for the estrangement, for even Marshall Hall's best friend would readily admit that he was occasionally very difficult to get on with. He was somewhat inclined to be high-handed and didactic, and with a wife of similar temperament one could foresee a rift in the matrimonial lute very soon.

Come it did in 1889. From all accounts Mrs. Marshall Hall was apt to be rather flighty in nature. She seems to have had a fondness for society not

## FORTY YEARS AT THE BAR

altogether suitable for the wife of a hard-working young barrister.

At all events, they parted company under a deed of separation, Marshall Hall making an allowance on the usual condition that the lady remained chaste. That, however, was exactly what she did not remain. Within a few months of leaving her husband she got into fast company and, among other undesirable people, made the acquaintance of a foreign woman named Mrs. Hermoine Grandt, who was not only one of the ladies of the town, but also, according to her own admission subsequently, a procuress. Mrs. Grandt was the lady I have mentioned in another part of this book as an instance of the difficulties you encounter when cross-examining women. When I asked her how she got her living, she pertly replied : " By eating and drinking."

She was, to be quite precise, one of the habitués of the old Empire and the Alhambra in the days when Leicester Square was a good deal more cosmopolitan than it is now. Among her acquaintances was a young army officer, Lieutenant de Ponthieu, who seems to have contracted a friendship with poor Mrs. Marshall Hall soon after she had left her husband. Whatever the circumstances, de Ponthieu asked her one day if she could recommend him some lodgings for a lady.

The lady was Mrs. Marshall Hall, and at Mrs. Grandt's suggestion the couple took up their residence at the house in Berners Street where she herself was then living. One could not ascertain for certain whether the two women went out together or not. In the witness box, after the tragedy had occurred,

## FORTY YEARS AT THE BAR

Mademoiselle categorically denied having been on anything more than the most casual terms of friendship. Still, even Mr. Charles Mathews, who had to call her as a Crown witness, cheerfully admitted that she was not a person whose word could be relied upon. I went even further and said straight out that she ought to have been in the dock.

The result of the association of Mrs. Marshall Hall with de Ponthieu was more or less what might have been expected. She became enceinte, and in an agony of mind as to what would happen to her if her husband came to hear of the matter took counsel with Mrs. Grandt. That lady, no doubt, had many other friends afflicted with the same trouble. In addition to being one of the *demi-mondaine* and a procuress, she was also in a position to arrange illegal operations. Among the people she appeared to know very well was a mysterious Belgian named Albert Laermann, one of those self-styled doctors who used to practise their nefarious profession more freely then than they do now.

The upshot of the conversation that took place between the two women was that Laermann was called into the house in Berners Street where Mrs. Marshall Hall was staying and, according to the evidence Mrs. Grandt gave in court, he there performed an operation upon her. It does not appear to have been very successful ; instead of making a recovery, the unfortunate Mrs. Marshall Hall became exceedingly ill, with the result that Mrs. Grandt, frightened that she would die at Berners Street, had her removed to Duke Street, where she continued to be treated by Laermann.

## FORTY YEARS AT THE BAR

There were sordid circumstances in the case for which Mrs. Grandt deserved condign punishment. Laermann himself alleged that he paid her a commission of £5 out of the £15 he had received from Mrs. Marshall Hall for his work, and there is no doubt that he spoke the truth. However, the Crown, in their anxiety to convict Laermann, decided to use Mrs. Grandt as the principal witness for the prosecution, a fact on which I afterwards commented with all the severity at my command.

What Laermann did to Mrs. Marshall Hall before she died nobody but himself could say. She had developed septicæmia, and in desperation he administered to her some corrosive fluid in an attempt to avert the mischief he had done. But despite all his panic-stricken remedies, the unfortunate young woman died. Dr. Phillips, who was called in a few days before her death, had no hesitation in declaring that she had succumbed from the after-effects of an illegal operation and at once informed the police.

I will not bother recapitulating in full the circumstances under which Laermann was arrested and his subsequent appearance at the police court on a charge of wilful murder. I undertook his defence, not because I had the slightest sympathy with him, but because I was exceedingly anxious that Mrs. Grandt and de Ponthieu, who had been more or less responsible for the tragedy, should receive their full share of public odium for the part they had played. In my own mind, I thought it highly likely that Mrs. Grandt herself was an active agent in the closing stages of the tragedy, and I even went so far as to suggest that she herself had administered a stronger

## FORTY YEARS AT THE BAR

dose of the corrosive fluid that precipitated Mrs. Marshall Hall's death.

Naturally, the case created a tremendous public sensation, and on August 2, 1890, when Laermann's trial took place at the Central Criminal Court before the late Mr. Justice Grantham, the court was crowded to suffocation. Charles Mathews led for the prosecution with Charles Gill to assist him, a formidable pair for any man to encounter single-handed.

Laermann's history and his record in London made it almost impossible for me to offer any adequate defence. A doctor named Jack, practising in Pimlico, testified that in October 1889 Laermann came into his service stating that he was an M.D. of Brussels. He considered him a skilful and well-educated man. Apparently, however, it was not much of a practice; all he gave Laermann was two guineas a week and commission, but as he had never asked to see his assistant's diploma one could assume that he knew his qualifications to be rather dubious.

In the following December Laermann bought the practice and paid for it with a cheque of £400, which afterwards proved worthless. When the police took possession of the surgery after Laermann's arrest they found a collection of instruments which clearly proved that he was nothing less than a professional abortionist. He had evidently done little or no general work, and the only conclusion one could come to was that his clientele consisted of women who were prepared to pay fancy prices for illegal operations. He had certainly been a regular associate of Mrs. Grandt ever since his arrival in London.

## FORTY YEARS AT THE BAR

One could quite understand the feeling of hostility to the prisoner which characterised the whole trial. It is a thankless task defending any man who brings about the death of a woman in the circumstances Laermann undoubtedly did, and, as I have said, I could only hope to mitigate his punishment by pleading that the people who had induced him to perform the operation should have been standing in the dock with him. My cross-examination of Mrs. Grandt will show what sort of woman she was :

“ When you last went to see the prisoner,” I enquired, “ you were offered a pair of opera-glasses. Did you take them ? ”

“ No, I did not.”

“ You would not do such a thing ? ”

“ No,” replied the lady impudently, “ but I should think you would.”

“ That will do,” said the Judge sternly.

She was not quite so pleased with herself by the time I had done with her, but nevertheless it made no difference whatever to the result. I spoke for something like two and a half hours, urging that if Laermann had committed a crime which justified his trial on a charge of murder, then the people who had conspired with him to bring about the tragedy should also have been indicted.

The Jury went out to consider their verdict about half-past seven at night and did not return into court until close on eleven o'clock. They found the prisoner guilty of manslaughter, and also expressed the opinion that de Ponthieu and Mrs. Grandt should have been included in the charge. Mr. Justice Grantham passed the very severe sentence of fifteen



## FORTY YEARS AT THE BAR

years' penal servitude, one of the longest terms I have ever known given for this class of offence.

It is not for me to make any remarks about this painful matter. I felt very strongly about it at the time, not only because of the sympathy I had for Marshall Hall himself, but because of what I considered to be the grossly unfair tactics of the Crown in making one person suffer for the sins of three.

Apart from any consideration of justice, the case itself cast a blight over Marshall Hall's life and career from which it took him many years to recover. I will even go so far to say that it made a different man of him for evermore ; he became reckless and short-tempered, flying off at a tangent on the slightest provocation. Nothing gave him greater pleasure than to undertake the defence in Crown prosecutions.

Time healed the wound to a certain extent. As the years went on, he recovered much of his old *savoir-faire* and became once again the brilliant advocate I had known in my early days at the Bar. But I imagine he died a disappointed man. He might have gone down to posterity as one of the greatest lawyers of all time, but I think, after the catastrophe of his first marriage, that he lost a great deal of the inclination to study, without which no man can hope to succeed in the arduous profession of the law.

## CHAPTER X

**B**EFORE I was called to the Bar I went into the office of my uncle, Michael Abrahams, who had a very large and varied practice, in order that I might learn the solicitor's part in undertaking actions and preparing cases for trial.

During that period I was fortunate enough to assist in the preparation of a very remarkable prosecution in what was famous at the time as the De Goncourt Turf Frauds. It was in sober truth a most astounding case, the like of which we have not known since. The master mind at the back of it was Harry Benson, a well-educated and well-connected man who belonged by nature to the criminal class. Brought up in Paris, his father being a British merchant with offices in that city, Benson spoke several languages with ease, and, of course, thoroughly understood the French nature. However, he appears to have gone wrong very early in life, and in the early 'seventies, shortly after the Franco-Prussian War had terminated, he turned up in London as the Comte de Montague.

The Comte's mission was a not uncommon one at that time. He besought the Lord Mayor's assistance for the town of Chateaudun, which had been utterly destroyed by the Germans. So charmingly did the Comte conduct himself, and so convincing did his tale sound, that the Lord Mayor had no compunction in handing him the sum of £1000.

## FORTY YEARS AT THE BAR

Unfortunately, the Comte did not feel altogether satisfied, and he must needs remain in London hoping to obtain further money by his clever imposture. But in a very short space of time the Lord Mayor discovered that he had been tricked. A warrant was applied for, when Benson, still posing as the Comte de Montague, was taken into custody and ultimately sentenced to twelve months' imprisonment. Whilst serving the term he set fire to his cell, and burned himself so badly that he became a cripple for evermore. However, if this disfigurement somewhat handicapped his movements and made him easy of recognition, it had no effect on his outlook of life except to make him a greater and more daring criminal than ever.

After his release from gaol, when his family in Paris would have nothing more to do with him, he made the acquaintance of a shady individual known as William Kurr. This gentleman had been a railway clerk, a moneylender's tout, and subsequently a bookmaker. But most of the betting businesses he ran had been of a fraudulent nature. He was, in fact, nothing better than a common welsher, but with the fertile brain of Benson to assist him he blossomed out on a grander scale than ever.

It must have been quite early in their association that they conceived the idea of suborning the police. In this case, as I shall reveal, the greatest sensation of all was caused by the fact that two well-known Scotland Yard officers in the persons of Detectives Meiklejohn and Druscovitch were bought over by Kurr and Benson. They were subsequently put on their trial and sentenced to a long term of penal servitude.

## FORTY YEARS AT THE BAR

Some time before the De Goncourt case Meiklejohn had been hot upon the trail of Kurr for a little swindle in Edinburgh.

"See if you can't buy him over," suggested Benson when he was told of the matter.

Much to Kurr's surprise, Meiklejohn proved amenable to reason, which so encouraged Kurr and Benson that they set about engineering one of the cleverest frauds of all time.

It occurred to Benson's fertile brain that France would be a most profitable country to carry out certain schemes he had in mind. Being half French himself, he was fully aware of the Gallic passion for money. The swindle he had in mind would be quite useless in England, but it might be worked in France if the right people fell into the trap. He and Kurr set to work to prepare a sporting paper which contained eulogistic notices of one Montgomery, of course, Benson himself. It seemed, according to this apparently genuine newspaper, that Mr. Montgomery had invented a wonderful betting system by which he had already made half a million.

There seemed to be no good reason for doubting the *bona fides* of the paper. It was made up in the approved fashion, contained a good deal of news, advertisements, and all the customary notices of the Press. What more natural then that when it fell into the hands of a number of French people, among them the wealthy Comtesse de Goncourt, it should appear to be the medium of an easy way to make money! In the paper it was stated that full particulars of the system could be obtained from the proprietors who, it is worth while noting, gave different addresses in

various copies of the paper. Although it was the only issue ever printed, it bore the number 1713, which no doubt contributed to its appearance of genuineness.

The Comtesse de Goncourt took the bait without any trouble. She wrote to London, and in due course was informed that if she would send various sums of money they would be invested for her under Mr. Montgomery's marvellous and unbeatable system.

There is no need for me to go too lengthily into this long and extraordinary tale of how the old lady was first of all allowed to win big sums of money. She, in her turn, growing more and more engrossed with such an easy way of augmenting her fortune, ultimately parted with a cheque for £10,000. Even that did not satisfy the precious scoundrels who were robbing her. They sent her a thousand or two back as part of her pretended winnings and then were unwise enough to ask for another £1200 for a further transaction which would surely bring her in a huge profit.

It is, of course, the old, old tale which brings so many criminals to their downfall. By this time the Comtesse had become short of money, and she went to her solicitor to raise some more. The French notary, who is nothing if not shrewd, soon discovered the reason of this shortage. Enquiries were set afoot, and presently it came to the ears of Kurr and Benson that the French Sûreté had instructed Scotland Yard to apply for their arrest. But the two conspirators then had no fear of any police action. They looked to their newly-acquired friend Meiklejohn to keep them fully posted as to what was going on, and when the de Goncourt business came to a head they



HARRY BENSON



## FORTY YEARS AT THE BAR

instructed Meiklejohn to approach Druscovitch, the officer who dealt with most of the cases that came from abroad, to see if he, too, would not listen to the voice of reason.

Druscovitch did not prove very difficult to tempt. In those days the Scotland Yard men were very badly paid, and Druscovitch, living above his modest means, made no compunction in accepting the money he was offered by Kurr and Benson.

Scotland Yard received information from Paris that certain men were "wanted" for defrauding the Comtesse de Goncourt. Druscovitch warned them of what was taking place, and he even went to the length, under Benson's persuasion, of delivering to him telegrams which came from the French police! But he knew, of course, that such a state of affairs could not continue indefinitely. He pleaded for them to clear out of the country before the crash came, adding unless he arrested somebody before long it would be as much as his position in the police was worth.

When it eventually dawned upon Kurr and Benson that their little game had come to an end they immediately set about hiding the traces of their crime. Benson, with characteristic ingenuity, used Detective-Inspector Meiklejohn to convert £13,000 of Bank of England notes into Scotch notes! With part of this money Benson opened an account in the Alloa Bank and successfully ingratiated himself with the manager. He had actually gone to the length of getting himself invited to dinner, and it was while the two men were at table together that Benson received a telegram from Druscovitch which guardedly



## FORTY YEARS AT THE BAR

informed him that the sender was going up to Scotland with a warrant to arrest him !

Benson, like a wise man, bolted, leaving behind him in the Alloa Bank a considerable sum of money. Druscovitch duly made his appearance, but, as was only to be expected, the fox had gone to earth. Druscovitch lingered in Scotland for some weeks pretending to find his man, until the time came when he had to return to Scotland Yard and confess his failure. By this time the authorities were getting rather restless. Continual complaints from Paris over the non-arrest of the swindlers goaded them into action, and without Druscovitch knowing it other enquiries were being made which traced the Comtesse de Goncourt's money from the time it left Paris to the date when Kurr and Benson had changed it into Scotch notes. The numbers of these notes were supplied to the police, and information was sent all over the world to keep a look out for them.

Benson fled to Holland, and soon after arriving in Rotterdam the Dutch police arrested him and held him for extradition. He communicated with a shady little solicitor he employed named Froggart. That gentleman, ever ready to play his little part in the great game, promptly sent a telegram to the Dutch police, which he took the liberty of signing in the name of the Commissioner of Police, Scotland Yard, saying that Benson was not the man wanted and that he should be set free forthwith ! The ruse might have succeeded had not the cautious Dutch officers wired to London for confirmation. The reply they received made them wishful to get ride of so slippery a customer as Harry Benson as soon as they could.

## FORTY YEARS AT THE BAR

Accordingly, Scotland Yard was requested to send an escort of officers immediately, with the result that there arrived in Rotterdam four or five London detectives headed by no less a person than Inspector Druscovitch ! Now, what would the dramatist say to such a situation as this ?

As a matter of fact, the authorities had no suspicion whatever then of Druscovitch being concerned in the case. But they were speedily disillusioned when Kurr, who was arrested in England, and Benson were placed on their trial and each sentenced to ten years' penal servitude. One might have thought that Kurr and Benson, having reaped the greater profit, would have held their tongues about the unfortunate men who had been beguiled into helping them.

They believed, however, that both Druscovitch and Meiklejohn had betrayed them, which was certainly not the truth. At any rate, when they were taken to the old Millbank Prison to begin their terms of penal servitude they sent for the Governor of the gaol, and in the presence of police officers made a complete confession of the crime from beginning to end. It seemed an incredible tale, and at first the authorities would not believe it. But a profoundly secret investigation, and a severe interrogation of both Meiklejohn and Druscovitch, subsequently convinced them of the truth of the story. Eventually five men, Druscovitch, Meiklejohn, Palmer, Clarke (who was acquitted) and the attorney Froggart were arrested and put on their trial. It is close on fifty years ago that this took place, but I can remember as plainly as if it were yesterday the staggering sensation it caused. With the exception of Clarke the prisoners

## FORTY YEARS AT THE BAR

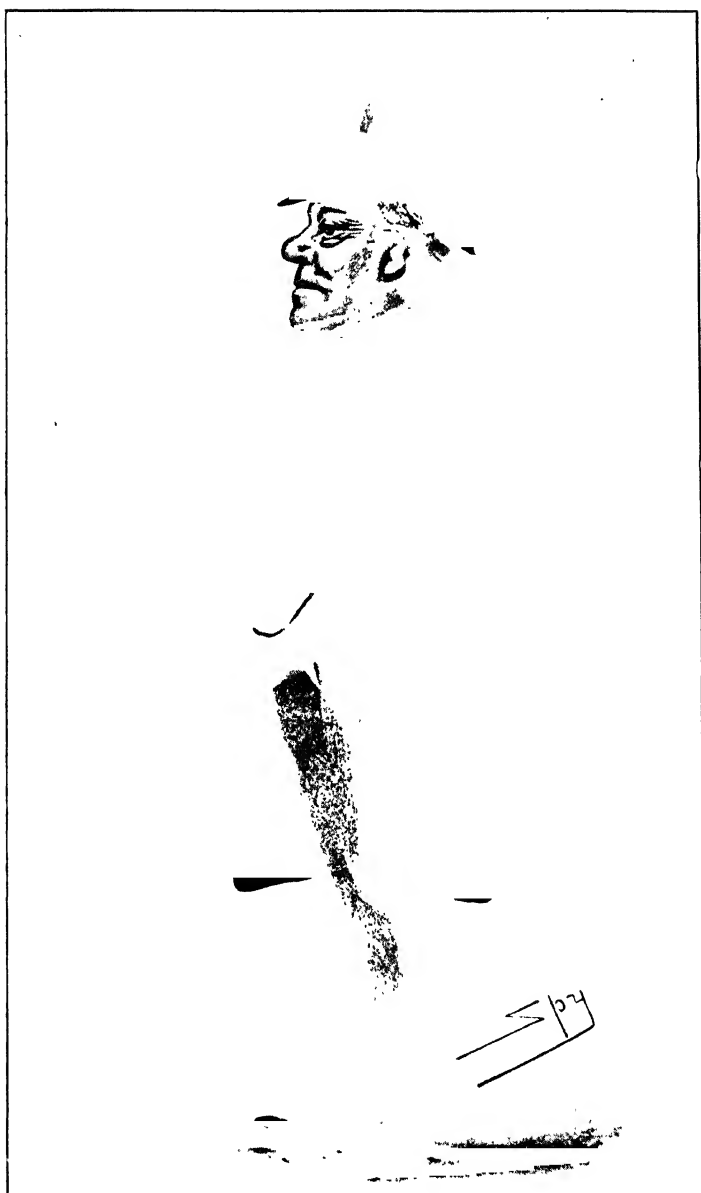
were all sentenced to various terms of imprisonment, and afterwards the Home Office set about reorganising Scotland Yard, bringing into existence what is now known as the Criminal Investigation Department.

Now for my part in this highly diverting case. I have been quite a long time coming to it, but, of course, it is necessary to set out all the facts so that the entire story may be understandable.

I must have been verging on twenty years of age and full of the exuberance of youth at the time when my father put me into my uncle's office to learn the musty business of the law, and I don't mind saying now that it did not particularly amuse me. In fact, I loathed it, and it was with the greatest difficulty that my poor old long-suffering uncle could be induced to retain me in his employ.

Being an eminent man in his profession he was engaged to conduct the prosecution not only of Kurr and Benson, but also of the five other men. To be strictly accurate, he had had the matter in hand from the very beginning, and his suspicions were aroused when he saw the strange manner in which Kurr and Benson eluded the police for so long. It was undoubtedly largely owing to his efforts that the couple were at last run to earth. He was a man of considerable influence with the Home Office, and once he made up his mind that he would not be baulked it took more than a gang of swindlers to stop him.

When Meiklejohn, Druscovitch, and the other three men were placed on their trial, my uncle briefed Sir Hardinge Giffard, afterwards the Earl of Halsbury and Lord High Chancellor, to conduct the case, while I, for my humble part, had charge of the large array



LORD HALSBURY



## FORTY YEARS AT THE BAR

of witnesses he intended to call. There were such a number of them that we had to take a whole house for them in the vicinity of the Old Bailey, where they could be kept under observation and also away from the voice of temptation.

I was only a boy at the time and I grew very tired of sitting in the fetid atmosphere of the Old Bailey day after day, and bringing to the court the witnesses as required.

What inspired me to do it I cannot say, but in my youthful innocence, thinking it might enliven the proceedings a little, I determined to play a practical joke on the redoubtable Sir Hardinge Giffard. He was a most fearsome little individual, and for the life of me I could not see why I should have to sit at his disposal for days on end while I might have been outside enjoying myself.

Sir Hardinge ordered me to bring to court a witness named Smith. Fortunately or otherwise, we happened to have two witnesses of that by no means uncommon name and, stranger still, both of them bore the same Christian name. I knew perfectly well the one Sir Hardinge wanted, but I thought it might cause a little badly wanted merriment if I brought the wrong one.

The wrong Mr. Smith duly ensconced himself in the witness box and Sir Hardinge proceeded to examine him. Of course, he had not gone far when he discovered that the man I had put in the box knew nothing whatever about the subject on which he was being questioned, whereupon he was told to leave.

All the time this was taking place I was sitting

## FORTY YEARS AT THE BAR

behind Sir Hardinge nearly bursting with laughter. I suppose everyone must have been wondering what was the matter with me, and when the unwanted Smith left the box I had to stuff my handkerchief in my mouth to stifle the mirth I could not control. Then, unluckily for me, Sir Hardinge sensed something wrong. He heard me laughing and turned round.

“Who is that young man unable to control his laughter?” he indignantly demanded of my poor uncle.

“My nephew,” replied Uncle Michael.

“What is the matter with him?”

“I am sure I don’t know,” said Uncle.

The case was stopped while Sir Hardinge had a few words with me. I suppose he realised what I had done, and he asked me whether it was by accident or by design that I put the wrong witness in the box.

By this time some of the flavour had gone out of the joke. With the eyes of everyone in court fixed upon me I did not feel quite so pleased with myself, and it was more than I could do to tell a lie. With a trembling lip I told Sir Hardinge that I had intended it as a joke.

“Joke!” he exclaimed. “Is this your idea of a joke? If I reported your conduct to the Judge, as I should, you would be sent to prison for contempt of court.”

He gave me what was indeed a first-class dressing down, and wound up by saying he hoped my uncle would punish me as I deeply deserved.

The end of Benson, the real brains of this amazing

## FORTY YEARS AT THE BAR

conspiracy from beginning to end, was typical of his striking character. After being released from penal servitude he rejoined forces with Kurr and crossed over to America, where he set up in business floating worthless gold mines. Having gained a considerable amount of experience in this line of business he came back to Europe and set about the old game of enticing the unwary. In Belgium, however, he got into trouble and was sent to prison for two years. On regaining his freedom he made Switzerland his hunting-ground, where he succeeded in robbing an Indian Army officer of practically all his money.

How he did it was characteristic of his methods. He set about ensnaring the affections of the daughter, made her lavish presents of apparently valuable jewellery, and then absconded with some thousands of pounds belonging to the father. Subsequently a warrant was issued for his arrest, but he escaped out of that predicament by refunding the money he had obtained.

With Europe becoming a little too hot to hold him he went back to America, and was next heard of in Mexico City posing as the advance agent of the famous *prima donna*, Madame Adelina Patti. The genial Harry had sold concert tickets for quite a nice little sum before the imposture was discovered. Police were sent from New York to take him into custody, but while in the Tombs prison, awaiting trial, he apparently came to the conclusion that his life would no longer be worth living. He committed suicide by throwing himself from the top story of the prison to a stone floor a hundred feet below. When the warders picked him up he was just breathing, and



## FORTY YEARS AT THE BAR

all he could do was to give a last sardonic smile as he passed over into the Great Unknown.

I remember at the time he was sentenced for the de Goncourt frauds the reply he made to the Clerk of Arraignment as to whether he had anything to say. He made a speech, one of the most eloquent efforts of its kind I have ever heard from the dock, and concluded it with the following classic illusion from Dante's *Inferno*: "*Lasciate ogne speraenza, voi, ch'entrate.*"

## CHAPTER XI

**I** SUPPOSE one might aptly compare the life of a lawyer with that of a soldier or a boxer. It is his business to fight, to penetrate the weak spots in his opponent's armour, and, occasionally, to have a few words with the referee, in this instance the presiding deity upon the Bench.

I was always a fighter, and I don't mind confessing that my pugnacious proclivities very often involved me in a wordy warfare with the Judge before whom I was appearing. Any man who sits in the seat of judgment naturally does not care about having his wisdom questioned. Having been appointed by the powers that be to interpret the law, it goes without saying that he does not want the law laid down to him.

In my young days at the Bar I acquired the reputation of being a fairly skilful cross-examiner, and was not infrequently briefed in the Chancery Division for that purpose only, incidentally gaining quite a considerable practice in that branch of the law. This brings to my mind a piquant little experience I had before Mr. Justice Chitty, afterwards Lord Justice Chitty, long since deceased. (He was a remarkably able judge, and was distinguished by the fact that he wore two wigs—one to cover his bald head, and the other his judge's wig !)

Swinfen Eady, afterwards Lord Swinfen, Master

## FORTY YEARS AT THE BAR

of the Rolls, then a junior, appeared on a Motion for a Writ of Attachment for Contempt of Court committed by a lady, a Mrs. Large, for parting with some property, as she alleged, to a man named Sheppard contrary to his lordship's order. I appeared for the lady.

Sitting in front of me was Frank Lockwood, Q.C., afterwards Sir Frank Lockwood, Solicitor-General, and other well-known Queen's Counsel.

There was really no defence to the Motion other than that I was armed with an affidavit of a medical man stating that my client suffered from aneurism of the heart and that if arrested the shock might kill her.

I read my affidavit to the Judge. Swinfen Eady argued that this was a mere friendly affidavit to avoid the lady being committed to prison for breach of the injunction granted by his lordship on a previous motion.

I protested, and pointed out to the Judge that a person could not be sentenced to death for a mere contempt of court, which might result if the lady were arrested.

CHITTY: "Are you trying to teach me the Criminal Law?"

MYSELF: "No, my lord, I am only trying to induce your lordship not to allow this Writ of Attachment to go."

CHITTY: "Well, now you can sit down!"

LOCKWOOD, sitting in front of me, whispered: "Don't you sit down. Read your affidavit again."

"My lord," I said, "I am afraid your lordship has not fully appreciated the full weight of my affidavit, and I will read it to you again."

## FORTY YEARS AT THE BAR

Once more I read the whole affidavit through, putting great emphasis on the words "the shock might kill her."

CHITTY: "Have you done?"

MYSELF: "Yes, my lord."

CHITTY: "Well, then, the Writ will go."

LOCKWOOD (whispering): "Stick to the judge. Read your affidavit again."

Then I got up and said:

"My lord, I have a solemn duty to perform to my client, and I am afraid I cannot have performed it properly, or your lordship would never have ordered the Writ to go. I must read the affidavit again."

THE JUDGE: "If you don't sit down, Mr. Abinger, I will commit you to Holloway."

LOCKWOOD (*sotto voce*): "Don't be frightened, he won't send you to prison. Stick to him."

So I stood erect.

THE JUDGE: "If you don't sit down, Mr. Abinger, I will send for a tipstaff."

I still remained standing.

"Usher!" roared the Judge, "send for a tipstaff."

A tipstaff arrived, I still standing.

"Come up here," said the Judge to the tipstaff, pointing to the witness box.

"Now," said Chitty to me, in a terrible voice, "if you won't sit down I will give you into custody of the tipstaff."

LOCKWOOD (very, very quietly): "He won't commit you."

I did not sit down—my knees gave way and I fell down.

## FORTY YEARS AT THE BAR

"You may go," said the Judge to the tipstaff.

THE JUDGE (taking a deep breath) : "Usher, bring me a Law List."

He then, no doubt, discovered that I had not yet been called two years.

"Mr. Abinger," he remarked pleasantly enough, "I see you have only recently been called to the Bar, and I am going to give you a piece of advice. If you want to win your case do not put the Judge's back up. I have no doubt you thought you were doing your duty, but you should have obeyed my order."

Then, turning to Swinfen Eady, the learned judge remarked :

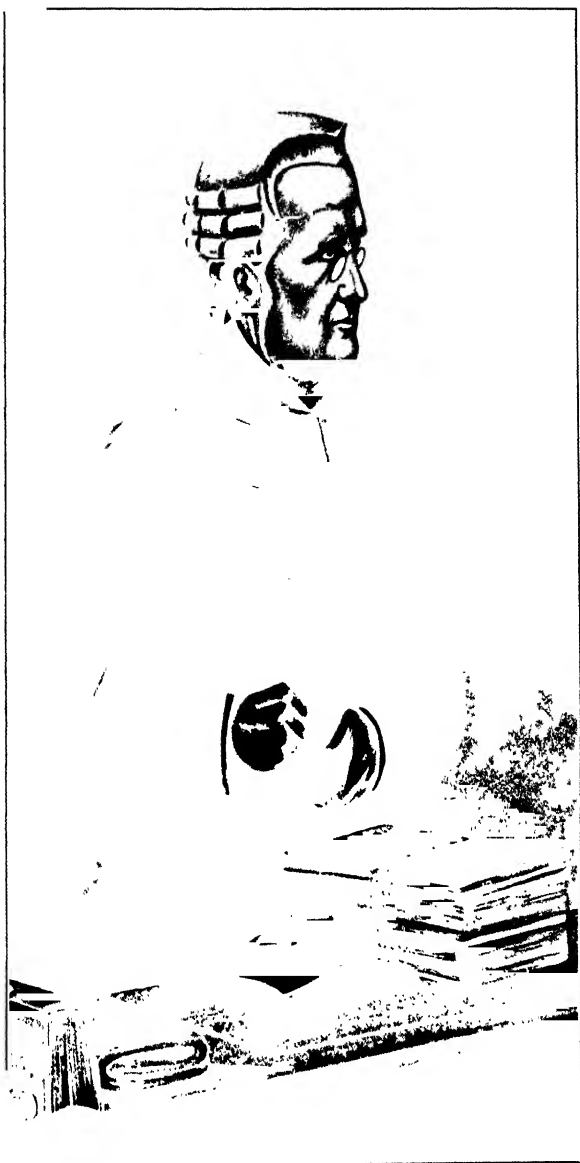
"Mr. Eady, upon the whole I will adjourn this Motion until the next Motion day. In the meanwhile you had better have the lady examined by a competent doctor and let we have his views on the present affidavit."

The following week the Motion came on again, and Eady frankly said :

"On the face of my medical evidence which I have now before me, I think it would be injurious to this lady's health if she were arrested." And no order was made upon the Motion.

This great judge, instead of taking umbrage at my impudence, afterwards treated me with the greatest kindness and consideration, until he died.

This experience of mine, which I never forgot, brings to my recollection an incident which occurred with a dear friend, Alfred Cock, Q.C., who frequently led me at the end of the last century. Cock was a brilliant advocate, perhaps a little brusque in his voice and manner, and was described in the cartoons



LORD RUSSELL OF KILTOWN



## FORTY YEARS AT THE BAR

of *Vanity Fair* as “lungs of leather and a voice like brass.”

His pet aversion was Mr. Justice Hawkins. They were always quarrelling. He used to describe Hawkins as that “yellow broughamed x——” (referring to the fact that Hawkins used to drive to the Law Courts in a yellow brougham.)

Cock used to think that Hawkins had his knife into him, and in many cases this culminated in a quarrel between them. I remember a case in which we appeared for the plaintiff before Hawkins and a jury. Before opening his case I said to Cock :

“For goodness sake do not quarrel with the Judge, or we shall be bound to lose it,” and he promised me not to do so, proceeding to open the case to the jury but keeping one eye on the Judge.

Presently the following dialogue ensued :

HAWKINS : “Mr. Cock, I object to you looking at me like that.”

COCK : “My lord, I must look where I like, when I like, and how I like !”

Result, verdict for the defendant.

Poor Cock died long before his time. He was tempted by a brilliant and treacherous day to lie upon a lawn, contracted pneumonia, and died. He was not in the front rank, but what was known in those days as a “Ten guineas Q.C.,” that is to say, in most of his cases he had ten guineas on his brief and two guineas for a conference. He had great persuasive powers with the jury, but his method did not appeal much to some judges.

With the exception of his wonderful defence of Parnell in the famous Commission, with which I have



## FORTY YEARS AT THE BAR

already dealt, the finest speech I ever heard Sir Charles Russell make was in an extradition case—*The Queen v. Castiglione*.

This man had shot another at Berne, in Switzerland, and Russell, on an application for a Writ of Habeas Corpus, was trying to establish that Castiglione had shot the man, not from any private motive, but in pursuance of a political rising. Of course, if the latter contention prevailed, this country, which has always been the happy refuge of political offenders from all parts of the world, could not order his extradition.

Russell, in addressing the Court, of which FitzJames Stephen was a member, in his very finest manner described the hospitality of his country in the above respect in the most dignified and eloquent language, and, drawing his speech to a conclusion, was in the midst of a magnificent peroration, when poor FitzJames Stephen, whose brilliant intellect was then no doubt on the decline, suddenly interpolated :

“What page are you quoting from, Sir Charles ?”

Of course, it is quite impossible to imagine what induced the Judge to ask such a question, as Russell had not been quoting from any text-book or law report. Russell evidently found the interruption too much for him, because he abruptly sat down and refused to say another word.

The most difficult person to cross-examine is a woman. If she cries and is good-looking you may look upon your case as lost ! The great thing is to cross-examine a woman effectively without making her cry.

I appeared in a most notorious case some years ago. It was a murder trial, in which I defended

## FORTY YEARS AT THE BAR

(I do not wish to refer to it here more particularly for a very good reason). A woman, handsome and well-dressed, gave the most deadly evidence against the prisoner. The case was tried before Mr. Justice Grantham at the Old Bailey, and I knew from experience that this judge would not tolerate anything like a too severe examination of a lady.

The witness wore a large picture hat, held a gold vinaigrette, a pretty lace handkerchief, and was wearing long white kid gloves. Naturally, in cross-examining a woman of this description, I had to be most careful.

“What are you?” I said to her.

“A woman.”

“Yes,” I retorted, “I can see that. Are you married?”

“No.”

“Are you single?”

“No.”

Noticing she was in black, I said: “I beg your pardon, you are a widow?”

“No.”

I felt puzzled. What could she be?”

“Don’t trifle with me,” I said to her, gently enough.

GRANTHAM: “She is not trifling.”

MYSELF: “Not married, not single, not a widow!” By sudden inspiration I said: “I beg your pardon. You are engaged?”

“No.”

“Then what in heaven’s name are you?” I rapped out, being at a loss to imagine any other condition.

“I am divorced.”

“Why not have said so at once?” said I. “Quite

## FORTY YEARS AT THE BAR

a respectable state of affairs. Does your husband allow you alimony ? ”

“ No.”

“ Then how do you live ? ”

“ On food.”

“ Yes, yes,” I said, becoming impatient, “ but where do you get the money to buy the food ? ”

“ I have an income.”

“ What is the source of it ? ” I enquired, inwardly boiling, but still in dulcet tones.

The lady turned to the Judge : “ My lord,” she said, “ am I bound to answer these questions ? ”

“ Well, yes,” the Judge said in such a manner as to convey that I did not quite know what I was talking about, “ I think, on the whole, you had better tell him.”

“ Well, I have a business.”

“ Good gracious,” I exclaimed, “ so have I, so has the Judge, so has probably everybody in court. Why not have told me at once ? ” Then, raising my voice, I asked : “ What is the nature of your business ? ”

I noticed the black hat at this stage seemed to get limp, the vinaigrette passed rapidly backwards and forwards to the witness’s nose, she crushed her handkerchief in her hands, and I felt that I was on the verge of a discovery !

“ What is the nature of it ? ” I asked in a louder voice.

Again she appealed to the Judge, who I think had begun to suspect her, and he said : “ Yes, answer the Counsel,” in severe tones.

The lady, in a faltering way : “ I am a laundress.”

“ What ! ” said I. “ Why not have told me at



MR. JUSTICE GRANTHAM



## FORTY YEARS AT THE BAR

once ? Yours is a highly honourable and I should say, judging from my laundry bills, a very lucrative business."

Taking up my brief and a quill pen I said to her in a loud voice :

" Tell me the name of someone whose linen you have washed in the last six months ? "

The lady was then almost in tears, and whispered after a long pause : " My own."

" What did you wash ? " (relentlessly).

" Some cuffs and some collars," was the whispered reply.

" Oh ! " said I, " was it from that remunerative occupation that you bought that beautiful picture hat, your gold vinaigrette, and the exquisite dress which you are now wearing ? "

No reply. I asked her nothing further.

A very amusing instance of the wiles of the fair sex took place before Hawkins where important evidence was being given by a woman in the case.

The lady carried a baby in her arms, and evidently looked upon my questions as quite a secondary matter. She kept on fondling the child, kissing it and crooning, until at last I lost patience and called out : " Usher, kindly go to the witness box and take charge of that baby until I have finished this cross-examination."

Now Hawkins had taken a strong view against me in this case, and said to the usher : " Do nothing of the sort. Let the lady keep her baby," and to me, imperiously : " Go on with your cross-examination."

" I will not cross-examine under these conditions," I retorted.

" Then," said the Judge, " sit down."

## FORTY YEARS AT THE BAR

I did so.

The most remarkable cross-examination of a woman I have ever heard was by Sir Charles Russell. He was interrogating a young and very beautiful Countess, and had to subject her to very severe questioning, and naturally he did not want to reduce her to tears. At times he would speak in gentle and almost paternal tones, and then when he reached the climax of this part of his cross-examination and when she seemed about to burst into tears, he would drop his fierce tone and resume the most dulcet and amiable manner towards her, which had the effect of restoring the lady to good temper. He proceeded to do this during a period of some two hours, getting out of her all he wanted without the lady shedding one single tear, a feat which in my judgment no other member of the Bar was capable of doing.

Of course, if the young lady had burst into a violent fit of weeping Sir Charles' further cross-examination would have been impossible, and with twelve sympathetic jurymen, he would probably have lost his case. Any lawyer reading this will no doubt recall the case to which I am referring.

Of course, every rule has its exception. I was once defending a landlord at the Old Bailey, who was charged with inflicting grievous bodily harm to his tenant.

At the police court the prosecutor swore that my client had struck him a violent blow in the face, knocking him down, and had then kicked him in the jaw. My case was self-defence. Opposing Counsel asked the prosecutor to tell the jury what the prisoner had done to him.

## FORTY YEARS AT THE BAR

PROSECUTOR : " He struck me a violent blow in the face."

COUNSEL : " Yes, what else ? "

PROSECUTOR : " That's all."

COUNSEL : " Please consider, was that the prisoner's only act ? "

MYSELF : " I hope my friend will not lead the witness."

COUNSEL : " I have nothing further to ask you."

Now, of course, I dared not ask the witness anything about the alleged kick, and he was just about to leave the box, when the Judge said : " I have a question to ask you. Did the prisoner kick you in the face ? "

" No," said the witness.

This question put by the Judge saved the situation and my client was acquitted. In spite of this exception to the general rule, I have always gone on the principle " Leave well alone."

A friend of mine, a brilliant counsel (now unfortunately deceased) named W. B. Campbell, was defending a man at the Old Bailey for murder of a barmaid. Not a single word was said by any witness called by the Crown of any previous threat by the prisoner, but Campbell, confident of getting a favourable answer, put to the licensee of the house the following question :

" Did you ever hear the prisoner threaten the deceased woman before the date of the alleged murder ? " and the publican replied : " Yes, many times, although I never thought the threat serious."

The prisoner was convicted and afterwards executed. Poor Campbell came up to see me in a



## FORTY YEARS AT THE BAR

dreadful state of dejection, saying he wished he had never come to the Bar, and it took me a long time to console him. I narrated to him my own experience, as described, of not asking a dangerous question.

Most counsel of experience can pretty well guess by the witness's demeanour whether he or she is lying or telling the truth. It is only in the former case that cross-examination serves a useful purpose, and I have always thought the shorter it is the better.

Two magnificent specimens of cross-examination cross my mind—one by Scarlett (afterwards Lord Chief Baron) and the other by the great Daniel O'Connell.

Scarlett was in a case somewhat similar to the great Tichborne trial. Scarlett's plea was that the plaintiff was an impostor and was, in fact, a discharged soldier. He cross-examined the plaintiff with great volubility and rapidity and then suddenly shouted at the top of his voice: "ATTENTION!" The plaintiff, thrown off his guard, clicked his heels together, brought down his arms sharply to his sides, and stood perfectly erect!

Scarlett won his case.

Daniel O'Connell, probably one of the greatest counsel who ever practised at the English or Irish Bar, was opposing probate of a will. His case was that after the testator's death his hand was guided by the plaintiff into making the deceased man's signature. The following dialogue ensued:

"I put to ye, witness," said O'Connell, "that when the man's name was written at the bottom of the will he was dead."

## FORTY YEARS AT THE BAR

“And I tell ye, Mr. Counsellor, there was loife in him.”

“And I put it to ye, witness,” said O’Connell, “by the oath that ye have taken, that the man was dead.”

“And I tell ye, Mr. Counsellor,” replied the witness, “by the name of the Holy Virgin, there was loife in him.”

O’Connell, noticing the strained manner in which the witness had repeated the words “there was loife in him,” put the following question which may have been induced by previous experience :

“And I put it to ye, witness, that ye caught a floi (fly) upon the dead man’s mouth and put it in and then took his hand and made his signature.”

The witness immediately broke down, and the will was pronounced proved.

## CHAPTER XII

**I** APPEAR unfortunately to have been singled out for a series of remarkable accidents, any one of which might have cost me my life, but with good luck hitherto I have escaped scathless.

I was in France one year during the Long Vacation and stayed for the night in a town once known as Napoleonville, but now Pontivy. Playing dummy bridge late in the evening, in my bedroom with a friend to pass away the time, I thought I smelt smoke. My friend told me to attend to the game. I did so, but a few moments afterwards became convinced that the hotel was on fire. I opened the door and found the corridor full of smoke and flames. I quickly realised that escape through the door was impossible, and rapidly I tied some sheets, blankets, etc., together, threw my portmanteaux out of the window, and with the help of the improvised rope my friend reached the ground safely.

At this moment a terrified woman of immense stature, already singed, burst into the room and implored me to save her. I tied the bedclothes and sheets round her waist and, praying that her weight might not break the rope, lowered her carefully to the ground, but when still some distance from it the "rope" gave way and the poor lady had a nasty drop, but was not seriously hurt. I then descended myself and reached the ground safely. We passed

## FORTY YEARS AT THE BAR

the rest of the night forming queues to the river-side and passing buckets of water from hand to hand which were then thrown on the burning hotel, which instead of extinguishing the fire naturally had the opposite effect. The hotel was burned to the ground. This accident demonstrates how primitive was the fire-extinguishing apparatus in the early Victorian age.

One day, wishing to cross the Channel from Folkestone to Boulogne, in the teeth of a wild south-westerly gale, I boarded the *Mary Beatrice*, a paddle steamer. In mid-Channel a tremendous sea struck her port paddle-wheel, smashing it, and it fell in the sea. The vessel took a great list on her starboard side and lay practically half-broadside on the water. It was quite impossible to stand on the deck. Naturally there was the greatest alarm amongst the passengers which I fully shared. A humorous incident, however, soon restored my courage and spirits. The Captain, evidently puzzled to know what to do, was holding on to the mast, his mouth pursed as if whistling. On the deck near to him was a French woman alternately screaming, crying, and praying. Hard by was her husband attempting to console her. He caught sight of the Captain and said to his wife: "*Tiens, chérie, n'ais plus peur. Il n'y a pas de danger. Le Capitaine siffle!*" (Don't be alarmed, dear, there can be no danger as the Captain is whistling!)

After a desperate struggle the Captain got out a trysail, brought the head of his ship up to the wind, cleared away the wreckage of the broken paddle-wheel, with the result that the machinery which was

## FORTY YEARS AT THE BAR

blocking the starboard paddle-wheel was clear and the starboard wheel was able to revolve. After several weary hours we ultimately reached Boulogne in safety, almost entirely due to the skill of the captain.

I was still more unfortunate in March 1899. I was crossing from Southampton to Jersey, a passenger in the s.s. *Stella*. When about seventy miles out of Southampton a fog was encountered, so dense that it was impossible to see across the deck. To my surprise the vessel did not slacken speed but went full speed ahead. I did not go below, feeling anxious, and consequently had no lunch, but about 4 p.m. I felt so starving that I determined to go below and get some food and if possible speak to the Captain. I knew the Channel very well, and was wondering how far we were away from the well-known Casquets. I found my way to the Captain's cabin. He offered me a cut from the joint on which he was lunching. I thanked him but asked why he was going full speed in such a dense fog. He replied : " The man on the bridge could get to Guernsey blindfold."

A gentleman was lunching with the Captain, whose body I afterwards identified by the remarkable scarf-pin he wore, but I, with some prescience or instinct of what was going to happen, begged the Captain to excuse me, and I immediately returned to the deck. I had hardly taken my foot off the last step of the companion ladder when I heard a loud shout, and I saw hazily through the fog the great rock of the Casquets rising some ninety feet looming right ahead of the ship. There was a cry of " Hard about ! " The vessel just escaped striking this rock, but as she

## FORTY YEARS AT THE BAR

passed it I heard a grating grinding noise which told me she had struck some submarine rock and was probably ripped from stem to stern. The vessel did not stop but went on for a quarter of a mile and then stopped dead. I heard the shout : " Lower the boats. Women and children first."

There followed a frightful scene. The boats were quickly crammed with women and children, and on lowering them to the sea several of them capsized. I saw a parson on his knees praying, surrounded by a crowd of passengers. These sights and the screams of the passengers so unnerved me that my one idea was to get away from these dreadful scenes, so I went right to the stem of the ship, which by this time was slowly settling by the stern. When the angle was so acute that I could no longer keep my balance I threw off my greatcoat and lowered myself into the sea. I struck the gunwale of a boat heavily laden with passengers, including, as I afterwards discovered, Miss Greta Williams, the well-known concert singer (I am glad to say still my friend). A half-naked fireman raised an oar and threatened to brain me if I got into the boat, but life is sweet, and in spite of his threat I quickly pulled myself into it.

I seized an oar and we pulled away clear of the *Stella* before she sank, as we feared the suction of the sinking ship might draw us down. I and another passenger, the Rev. Bailey, pulled away for our lives, and only just in time.

The *Stella*, in a dreadful roar of escaping steam, sank in a few minutes. On her deck was a pantech-nicon van with some fifty passengers sitting on it. The van floated free of the ship, but, alas ! it rolled

## FORTY YEARS AT THE BAR

so dreadfully that all the poor passengers one after another dropped into the sea and all were lost. Greta Williams, to cheer us up, sang "Abide with me." It was a weird and dreadful spectacle. Bodies of women, children and seamen were floating dead in the water, all drowned in a very short time.

Some of the women I saw wore lifebelts, but they had been badly fixed, with the result that their poor bodies were submerged and their legs stuck out of the water.

I took stock of my surroundings and found that some twenty people were lying in the keel of the boat, dreadfully wet and uncomfortable. A hoghead containing water was lashed to the boat and obstructed the seats so greatly that I determined to cut the lashings and throw it overboard. My friend, the half-naked fireman, said if I did he would throw me into the sea, but I was implored by the women to do so. I cut the ropes and got it over the side of the boat to the great relief of the passengers who were thus able to lie down more comfortably.

The gunwale of the boat was almost level with the sea, and whilst some of the ladies baled all night the reverend gentleman and I rowed. At about 8 o'clock the following morning the fog lifted. I saw to my delight a large sailing vessel. We made signals to her and shouted all together, but, alas! she did not see us and sailed away.

We were afterwards sighted by the s.s. *Vera* and eventually found ourselves safely on deck. Frozen with cold and wet, we were soon quickly between blankets and supplied with hot coffee, finally reaching Guernsey and Jersey in safety.

## FORTY YEARS AT THE BAR

I afterwards had the unusual experience of being called as a witness at the Board of Trade enquiry, held at the Guildhall, Westminster, before Mr. Mansell, now deceased. I was cross-examined by many eminent counsel (including Sir Robert Reid, afterwards Lord Loreburn) for many hours. The owners limited their liability under the provisions of the Merchant Shipping Act. My share came to £48. This sum represented a very small proportion of what I lost. I was quite unable to practise for some months, and for a long time was under medical care, suffering from the horrors of neurasthenia in a most acute form. I could not get out of my mind the horrifying cries of the drowning passengers and the sight of men, women and children going to their death.

I suffered very badly from shock and insomnia for some years after this, but recovered my sleep by a then comparatively unknown drug—veronal—prescribed to me by a most eminent surgeon. This fact became known to many of my friends in the Temple. It happened that an action was brought by the administratrix of an insured person to recover a large sum of money on a life policy. The insurance company refused to pay upon the ground that the assured had not revealed the fact that he was in the habit of taking veronal. He, in fact, died as a result of taking an overdose of that drug. The case for the defence was that if any person became addicted to the use of veronal they became mental degenerates, dirty in their habits, and, in fact, “a lost soul,” as it became impossible to resist the craving for the drug.



## FORTY YEARS AT THE BAR

I was called for the plaintiff and gave evidence of my own experience of this drug, which had cured me of that dreadful malady, insomnia. Counsel asked me whether it became a habit.

“No more than taking a liver pill when your liver is out of order,” I replied.

Did I crave for it ?

“Yes, but in the same manner as I crave for an effervescent saline if I awake with a headache.”

Mr. Justice McCardie (who had just been appointed to the Bench) was that kind of man who has made himself popular with the whole profession. He came to my rescue now, and remarked :

“I can vouch for the fact that the witness is not a mental degenerate, because he beat me twice in succession at Nisi Prius, and from the dates with which he has furnished us, it was at the very time he was taking the drug !”

My ill-luck still pursued me. After the wreck of the *Stella* I became a member of the New Bridge Club at Knightsbridge, and was driving back to the Temple after midnight in a hansom cab. In coming down the hill in Piccadilly the horse bolted and raced along at a gallop. I did not quite know what to do, but presently a great market cart loaded with vegetables slowly travelling to Covent Garden, came in sight, and I, in evening clothes, took a flying leap from the cab, landed safely in the midst of the cabbages, and thus probably saved my life. But I was indeed a spectacle. My shirt and evening clothes were more like a cabbage patch than anything else !

One evening leaving the Temple by hansom cab I asked a barrister friend if he would like a lift to the



LORD COZENS-HARDY



## FORTY YEARS AT THE BAR

West End. He accepted my invitation. Before we reached Charing Cross the traces broke and the cab fell away from the horse and we both found ourselves standing on our heads !

“Serves me right,” said my friend, “I will never again travel with you.”

On another occasion I was at Folkestone about to go by the cross-Channel steamer, when a friend asked me “if I thought of crossing the Channel.”

“Yes,” I replied.

“I am not going across with you,” was his prompt rejoinder, “I shall wait for the next boat.”

Shortly after this, panting for some sea air, I boarded a steamer in London, a tramp going to Ostend. When we were well out in the North Sea she lost her propeller ! Here was a pretty business. The Captain did not know whether he should put up anchor lights or side lights, but ultimately hoisted three red lights on his mast. Vessels of all sizes passed us and repassed us in all directions and the ship floundered about quite helpless in a calm sea.

Day broke. It was still quite calm but misty. I found the Captain and asked him how long he was going to keep me on his derelict ship. He replied that he did not know. I saw something in the distance and hailed it, in spite of the threat of the Captain that if I did not desist he would lock me up in the cabin. I dared him to do so, threatening his owners with an action for false imprisonment, and shouted out : “Ship ahoy !” She came alongside and I asked the skipper if he would take me ashore, to which he agreed. I quickly shifted myself and my portmanteau on to the smack, only to find myself

## FORTY YEARS AT THE BAR

out of the frying-pan into the fire. The deck was filthy, all covered with the scales of fish. My breakfast consisted of fish, which was served to me on a piece of paper. The fog thickened and the Captain had not the least idea where he was. The best part of the day passed, but fortunately the fog lifted and I found myself safely back in Dover.

But even this does not exhaust the tale of my misfortunes. While returning from a holiday in Penzance by express broad-gauge train on the Great Western Railway in the summer many years ago, the train came into violent collision with another train laden with bullocks. The shock of the impact smashed one side of the carriage in which I was seated and tore up the flooring. Luckily for me I was sitting opposite the side of the carriage which was smashed, or I do not think these reminiscences would ever have been written. As it was, I was thrown violently to the ground, but although greatly shaken I discovered I was unhurt. I scrambled out and saw a weird spectacle. The front part of the train was telescoped, the ground littered with the carcasses of the dead cattle, and everything splashed with their blood.

I did what I could to assist in helping less fortunate passengers than myself out of the wreckage and ultimately reached Paddington very late at night.

Old Dr. Bond, long since deceased, called upon me in the Temple by request of the Great Western Railway. He examined me, told me I was suffering from shock, and wished to know whether I intended to bring an action. He went on to say that he had heard some laudatory accounts of my conduct, and

## FORTY YEARS AT THE BAR

as my holiday was spoilt he would advise the company to send me a cheque, which he hoped I would accept. It arrived in due course for the small amount of thirty guineas, just about what I had spent on my holiday.

The one advantage of a railway smash over a shipwreck is that in a few seconds the former is finished. One is either killed, injured or uninjured, but it is all over. In shipwreck the agony is kept up hour after hour with no knowledge of what one's ultimate fate will be. I have described the weary and anxious hours of waiting in my account of the wreck of the s.s. *Stella*.

In the year 1876, while travelling from Cologne to the University town of Jena, in Thuringen, where I was studying, I fell asleep at night-time. Awaking, I felt that the last coach in which I was seated alone was motionless. I jumped out of the carriage, being unable to see from the window what had happened. It was a very dark night, and I walked carefully along the permanent way to find to my immense surprise that there was no train! Also, that there were no other passengers in the last coach but myself. I thought the safest thing to do was to climb up on the embankment and wait.

I could see no signs of a dwelling-house nor any light. It was a strange position to find myself in. An express train dashed along at full speed on the up line. I shouted as loud as I could but, of course, the rattle of the train drowned my voice.

And there I sat for a couple of hours, when to my great relief an engine approached travelling very slowly. I again shouted, and this time I was heard.

## FORTY YEARS AT THE BAR

I explained to the engine-driver and showed him the position of the derelict coach. He told me that the couplings had broken and the coach had not been missed until the train had reached the next stopping-place, many miles away. He had therefore been compelled to travel very slowly, as he had no information where the carriage was standing. My carriage was attached to the engine, and off we went until we reached a station, where I was accommodated until the morning when I completed my journey.

I now come to the last of my experiences of railway accidents, and but for the fact that I have always been on the alert when travelling by rail, this would probably have been fatal.

I was returning from Monte Carlo, after spending a few days there during the Christmas recess. The train ran in two sections. I was in the first section, and found a seat in the last carriage. It was at night-time, and after the train had sped along for some two or three hours it stopped. After a time I began to wonder if anything had happened. I looked through the window but could see nothing. Some five or six minutes later, the train still standing motionless, I began to grow alarmed and determined to get out of the carriage. I had hardly crossed the down line when I saw the flaming light of an engine travelling at great speed, also on the up line to Marseilles and Paris, and rapidly approaching the train in which I had been travelling. I quickly appreciated that this train must be the second section of the express. It dashed into the stationary train with tremendous impact, completely wrecking the carriage where I had been seated and killing

## FORTY YEARS AT THE BAR

several passengers. My escape was miraculous, but this accident severely affected my nerve. I have always been a powerful swimmer and would think nothing of swimming a mile out to sea, but after this accident I never could sum up my courage to swim out without being accompanied by a boat.

In concluding this description of some of the accidents in which I have been involved, may I say that I have, strange to say, never been in a theatre or kinema fire, but on the rare occasions when I attend places of amusements I am always on the qui vive. I have travelled backwards and forwards to Margate, where I reside, every day save Saturday, Sunday, and Vacations now for twenty-one years, and (touch wood!) I have never had any mishap in my daily journey of 147 miles.



## CHAPTER XIII

**D**URING the debates on the Home Rule Bill, in the year 1885, I was almost nightly under the gallery listening to the wonderful oratory of Gladstone, Joseph Chamberlain, John Bright, and other great speakers.

The "G.O.M." used to keep me spellbound, not only by his splendid appearance and unforgettable eloquence, but by his remarkable gestures. He used to address at one moment the Speaker, then, twisting himself rapidly on his heels, he would turn to the Opposition and then wheel round to his supporters. With the exception of Lord Salisbury, he was the greatest orator I have ever heard in my life.

I do not think he thought much of lawyers, and, as was once remarked to me by an eminent King's Counsel: "So great a contempt had he for us that if you look at his statue you will find he is turning his back on the Law Courts!"

(I believe the Earl of Beaconsfield, smarting under a severe cross-examination by counsel, once described us as "Gentlemen who hire out their tongues at so much an hour.")

Gladstone had none of the affectation of Disraeli from the point of view of dress. He was always plainly and quietly dressed with his careless tie drawn over his huge collar. Disraeli, on the other hand, was so keen on keeping up a fine appearance

## FORTY YEARS AT THE BAR

that he once discharged his servant for carrying his greatcoat with the satin lining inside instead of outside !

One night, sitting up during the debate on Home Rule until two o'clock in the morning, I fell asleep, and was awakened by an attendant who told me that no visitor was allowed to go to sleep in the House (that privilege then, as now, apparently being reserved for members), so I determined to go home. There was only one four-wheel cab in Palace Yard and I saw a man running hard for it. I followed at my top speed, hoping to be the first to arrive. The man turned round to see who was following him, and to my great surprise I found I was actually chasing the "G.O.M." ! He, however, won the race and secured the "growler."

In those days I not infrequently found myself in political society. One evening I was playing whist at the house of the late Lord Randolph Churchill. A certain prominent Member of Parliament and a well-known knight formed the party. There was a good story told by this Member of Parliament, that his wife used to make herself up to such an extent that he said to her one day : " If you don't go upstairs and take all that make-up off, I won't live with you."

The lady disappeared and returned *au naturel*, upon which her husband said to her : " If you don't go upstairs and put that all back again, I won't live with you ! "

I often used to watch Lord Randolph in the House. He would cross his legs and twirl his moustache continuously. He used to watch Gladstone like an eagle, and the "G.O.M." seemed very uncomfortable

## FORTY YEARS AT THE BAR

when Lord Randolph indulged in some of his brilliant sallies. It is to the great benefit of the country that Mr. Winston Churchill, his son, has inherited many of the striking qualities of his father.

A remarkable personality known as Colonel North was then at the height of his fame. This man started life as an engine-driver, emigrated to Iquique in Chili, and finding that there was no proper water supply formed a syndicate, built an aqueduct to provide Iquique with a constant supply of water, and thus laid the foundation of his immense fortune.

Later, he discovered in that neighbourhood that there were large deposits of nitrates. North formed company after company, all of which were great successes, and he rapidly became a multi-millionaire and on account of his great wealth was much sought after in Society.

He was of the most extraordinary appearance. His head was covered with red hair, and he wore a bristling moustache. He owned a beautiful house and grounds at Eltham in Kent, Avery Hill, at which I have been a guest, but he used rather to spoil his hospitality by asking you to take a glass of his finest old sherry and then enquiring: "How much do you think I paid a dozen for it?"

I think he must have taken quite a fancy to me. Once, paying a courtesy visit to a friend's house, I found him there with a group of men, round him a decanter, whisky, and the usual concomitants on the table. I was introduced to him, and he promptly asked me to join him in a whisky and soda. I remarked to him: "This is not your house and it is hardly for you to offer me refreshment."



SIR CHARLES GILL



## FORTY YEARS AT THE BAR

The gallant Colonel—I am not sure how he obtained his rank—only laughed.

“I rather like you,” he informed me, and taking me aside he confessed that he was always surrounded by a crowd of sycophants, and that it was a real luxury to come across a young man who did not “kowtow” to him!

He was then running the Spanish Exhibition, and invited me to dine with him on the following evening at the Exhibition. I went, and he gave a fine repast—and the waiter 6d. ! The poor waiter looked dreadfully crestfallen. I said to the Colonel: “Why on earth did you only give him sixpence?”

“Quite enough for him,” replied the multimillionaire. “I don’t believe in spoiling such people.”

When North died his estate realised a very small amount. He spent a fortune on the Turf, where his vagaries used to be a sore trial to his trainers. Incidentally, he had been a source of much profit to the impecunious section of the nobility, who made much fuss of him when he had his money and dropped him like a hot potato the moment it was whispered that his wealth was rapidly disappearing.

Like a good many more men of his type, he did not know when to stop. Although he possessed a huge income from his Chilian investments, he must needs set up in business as a stockbroker, and if ever there was a “lamb on Wall Street” it was my friend North. The jobbers soon made ducks and drakes of his millions. His beautiful home at Eltham, upon which he had lavished a fortune in much the same way that Whitaker Wright had done with Lea Park, was afterwards bought by the London County

## FORTY YEARS AT THE BAR

Council and converted into a training college for teachers.

Dealing with the question of money brings to my mind one of the most remarkable men I ever met—the famous moneylender, Sam Lewis.

Sam was a very good-looking fellow, something like Bret Harte's female character in *Specially Jim*, "black-eyed, pert, and slim, with all the fellers a-courtin' me for miles around," only in this particular instance the sexes were reversed and everybody used to court Sam for his money.

Of course, he made a huge fortune by lending money to the nobility and others, but in spite of his usurious methods he achieved quite an extraordinary amount of popularity.

A certain nobleman I knew very well, who had run through a great patrimony amounting to many hundreds of thousands of pounds, himself told me the following story :

He was walking up Regent Street one day wondering how he was going to get some lunch when he met Lewis.

"How are you getting on ?" asked Sam.

"I am pretty hungry," replied his lordship.

"Come and have lunch with me," said Sam.

The two men went into the Café Royal, where Sam ordered a most sumptuous lunch, and after it was over pressed a fifty-pound note into the nobleman's hand and wished him the best of luck for the future.

A humorous little story Sam used to tell with great gusto concerned himself and the late Sir John Blundell Maple, the head of the well-known furnishing firm in Tottenham Court Road. Said Maple, patronis-

## FORTY YEARS AT THE BAR

at that time was being closely cultivated by the late King Edward, and constantly visited the Royal cottage at Sandringham :

“ Good morning, Lewis. How is money in Cork Street ? ”

“ Not so bad, Maple,” replied Sam in his breeziest manner. “ And how is the bedroom china in Tottenham Court Road ? ”

Only, I might explain, Sam did not exactly say bedroom china. He was always a gentleman who believed in calling a spade a spade.

A man whom I not infrequently met in the smoking-room of the House of Commons was Sir William Harcourt. He used to profess a contempt for the aristocracy, declaring he sprang from the Plantagenets.

His views on Home Rule varied. At one part of his career he jeered at the Conservative attitude with regard to Parnell and his followers. “ Stewing in Parnellite juice ” was one of the gibes he threw at the Tories. Afterwards he became a strong supporter of Home Rule, and thus gained the name of “ Weathercock.”

One day Harcourt and Lord Charles Beresford were having tea on the terrace of the House of Commons. Lord Charles, with his honours gained at the bombardment of Alexandria still thick upon him, was being teased by Sir William, who said to him :

“ You do not look like an Admiral, Beresford, but you are ! ” To which Lord Charles made the witty reply :

“ Well, Harcourt, you do not look like a weathercock, but you are ! ” which sent everybody in hearing



## FORTY YEARS AT THE BAR

into roars of laughter, and left poor Harcourt absolutely speechless.

It takes me back a good many years, to be precise about forty, to an incident in my career which must now appear exceedingly strange. I was engaged for the defence of a man charged with "inflicting grievous bodily harm and consorting together to commit a breach of the peace, or engaging in a Prize Fight."

I think this must have been about the last of the prosecutions of this nature. For a good many years the authorities had endeavoured to put down fighting with the raw knuckles, no doubt rightly so, but it appeared to me to be the height of stupidity to make criminals of men for indulging in what I considered then—and still think—to be one of the greatest accomplishments of mankind.

It was in this case that I first met the late Richard Muir who, like myself, had not long been called to the Bar. Muir, as a matter of fact, prosecuted the two prisoners while myself and the inimitable Gerry Geoghegan defended them. Muir sought to prove that it was a real old-time scrap with the raw 'uns, while Geoghegan and I religiously made it our business to prove the contrary.

The accused men, Smith and Wilkinson, were found guilty of common assault, and I remember the Chairman of the Sessions, the late Mr. Rafe Littler, Q.C., remarking, as he fined the prisoners £10 each, that the promoters were much worse than the boxers themselves.

Well, times have changed and dear old Littler is no more. Who would think of prosecuting the boxers who now draw crowded houses in the United States

## FORTY YEARS AT THE BAR

of America, in France, or even in Germany, Italy, and Spain, to say nothing of good old-fashioned England? Instead of it now being a criminal offence, I think that every country in the world realises that nothing is more calculated to develop the stamina of young men than boxing, necessitating as it does clean living, great strength, judgment and endurance.

I myself when I was a young man loved nothing more than boxing, and came out successful in many a fight. Indeed, I felt so confident of my prowess that I made up my mind to have a little practice with a real prize-fighter, and made arrangements to meet Pat Mullens at the Charing Cross Swimming Bath, which was then somewhere in the neighbourhood of Charing Cross Bridge.

After two or three rounds I suspected that Mullens was not doing his best, because I seemed to hit him more frequently than he hit me, and I asked him point-blank: "Are you playing with me or boxing me?"

"Well," said he, "if you want to know, sir, I am not doing my best."

"Do your best," I requested, "and look after yourself."

On regaining consciousness I found I was lying on my back with two men fanning my face with white handkerchiefs, Pat Mullens being an interested spectator!

"What happened?" I enquired.

"I only gave you a tap on the point," Mullens replied.

I paid him his fee, making a mental vow that prize-fighting was not my *métier*.

## FORTY YEARS AT THE BAR

I later defended Charlie Mitchell, undoubtedly a first-rate boxer, who having lost his temper struck a man in the face and broke his jaw. He was charged with an assault inflicting actual bodily harm and, in spite of my efforts, sent to prison for six months.

I met him on his release at a boxing contest and asked him whether the prison diet had not affected his condition. Remarked Charlie: "Prison diet! Why, I had a rump steak every day!"

Whether this was true or false I am not in a position to say, but he certainly looked in the pink of condition.

That was a good many years ago, but although I I am now in the neighbourhood of threescore and ten, I still enjoy fairly good health in spite of many illnesses. For this I have largely to thank the late Lord Mayor Bell.

I was his guest one day at the Mansion House at lunch. The table was groaning with good things. The Lord Mayor called for and had a heavy plateful of leg of pork, apple sauce, parsnips and potatoes, having already had a basin of soup and a liberal helping of fish. He then told a waiter to bring him a portion of roast chicken, which appeared to be practically half a chicken. He assisted this down with brussels sprouts and potatoes!

I myself was more than contented with a piece of the breast of the fowl, being a small eater. My Lord Mayor then had some Stilton cheese, biscuits, and a glass of port wine. At that moment the attendant said: "My lord, the Court is ready."

But the Lord Mayor wasn't ready!

"I will be there presently," he replied going on

## FORTY YEARS AT THE BAR

with the good work. I looked on in blank amazement at seeing a man a good deal older than myself eating such a tremendous meal, and I quoted to him the Greek aphorism : " More men died of surfeit than of starvation."

" Oh, indeed," said the Lord Mayor. " I shall eat double this quantity at the Mansion House to-night at dinner, and if you like, Mr. Abinger, I will show you how you can do the same."

He then proceeded to show me a series of movements which exercised the muscles of the arms, stomach, and back, and indeed every part of the body.

" If you do this night and morning," he informed me, " you may eat as much as you like and live as long as you like."

This conversation was, I think, in the year 1908. I took the Lord Mayor's advice, and have never missed (except when ill) performing these exercises day and night, to which fact I think I am still practically as active as I was twenty years ago.

It is fair to add, though, that I have had to live, on the advice of a most eminent surgeon, at Margate, for the last twenty-one years on one of the highest places on this part of the coast, travelling daily, excepting Saturdays, backwards and forwards to London, some 150 miles or so. I do not mind the journey. In fact, I love watching the countryside and never get tired of looking at it, but I have to rise at half-past six in the morning.

I should say that when the advantage of living on the coast is more thoroughly appreciated, instead of there being as there is now a comparative sprinkling

## FORTY YEARS AT THE BAR

of coast dwellers travelling to London and back daily, a hundred thousand people will do the journey.

A near neighbour of mine is Mr. Harry Isaacs, the brother of the Marquess of Reading, who lives at Kingsgate. Sir Charles Gill built himself a bungalow at Birchington, at which he died. Lord Carson, who was his guest, was so delighted with the place that he also took a bungalow and after a time left it and bought himself a beautiful little estate, Cleve Minster, in Thanet, a few miles away from the coast.

## CHAPTER XIV

THE Press, wherein you may find all that is good and bad in this strenuous life of ours more or less faithfully reflected, unconsciously played the opening scene in one of the most astounding dramas I ever encountered.

There appeared one day an advertisement in the "Situations Vacant" column of a great London Daily, which ran something like this :

Wanted, Reliable Coachman. Must have good references. Wages £60 a year and all found. Apply . . . . . Bedfordshire.

I have purposely omitted the name of the advertiser, because when all is said and done it does not greatly matter. The virtue of this almost unbelievable story lies in the facts.

An extraordinary specimen of humanity, whose claims to reliability in any shape or form must have existed only in his imagination, travelled down to Bedfordshire to offer his services. He was a great fat creature, whose mottled complexion betokened intimate acquaintance with the cup that cheers. Nor did his bloodshot eyes, filthy finger-nails, and an enormous paunch somewhat inadequately covered with a greasy moleskin waistcoat, across which there stretched a huge gold chain, tend to strengthen the opinion that he might prove a desirable adjunct to a domestic staff.

## FORTY YEARS AT THE BAR

But, strange as it may seem, he had about him the air of the grand flaneur. He must have been something like Arthur Orton, gifted with a specious way and the faculty of beguiling the impressionable heart of the fair sex. It may be that the beautiful country house to which he had journeyed fired in him the ambition of trying his luck at high game.

The butler who introduced this greasy Colossus into the presence of his delicately nurtured mistress did so with the strongest misgiving, a feeling which became greatly intensified when he learnt to his dismay that the new-comer had been engaged. In due course this self-styled reliable coachman made his appearance in the servants' hall where, incidentally, he found a most comely housekeeper.

In some manner in which I could never understand, this man succeeded in obtaining an extraordinary influence over the mind of the frail and delicate lady of the house. She was a wealthy woman with a fortune amounting to something like £100,000, but she had no one to whom she could turn, and as the months slipped by the coachman began to do what he liked with her.

He actually proposed marriage to her ! There was no one at all in the house who might have put an immediate stop to such a preposterous state of affairs, some man who might have kicked this impudent coachman out of the house without waiting for the mistress's permission. The servants, fully aware of the power the coachman possessed, were afraid to say a word.

Shortly afterwards the marriage secretly took place. The coachman, still wearing his greasy mole-

## FORTY YEARS AT THE BAR

skin waistcoat, at once set about inducing his newly-made wife to alter her will in his favour, leaving him the bulk of her fortune. When that had been done he soon showed his fellow-servants who was the master.

Though they knew that he did what he liked with his mistress, they were blindly ignorant of the secret marriage. All they realised was that he gave orders as though he were the master of the house. Protests proved futile. Wine disappeared at the most alarming rate. There were sumptuous banquets at which the drunken coachman entertained his horsey friends, in short, a veritable orgy of drink and food which turned the household upside down.

But, unfortunately for the coachman, the winecellar proved too great an attraction. The champagne he swilled by day, followed by liberal potations of brandy and port wine at night, must have somewhat undermined his cunning. One fine day in an amorous spirit, no doubt induced by the drink, he was rash enough to propose marriage to the housekeeper! Such a proceeding might have been quite feasible in the household of the Shah of Persia, but in a respectable English mansion it possessed potentialities of a rather disastrous nature.

The housekeeper, quite a modest and respectable woman, seems to have been rather overborne by the eighteen-stone massive love-making of the Falstaffian coachman. At any rate, she agreed to marry him, and on a certain date the couple went to the Registry Office in Bedford and were duly united in the holy bonds of matrimony by an unsuspecting Registrar.

Now here was a strange situation if you like! A twenty-two-and-sixpence per week coachman secretly



## FORTY YEARS AT THE BAR

married to his mistress, and openly married to the housekeeper. And all three participants living in the same house! It could only be a matter of time before complications would ensue.

The first marriage remained a secret, but without a doubt the realisation of her incredible stupidity so weighed upon the mind of the mistress that she died. The corpulent coachman at once took steps to prove her will, gleefully rubbing his dirty hands at the prospect of the fortune he believed to be coming his way.

But, alas, it proved to be the old, old story of many a slip 'twixt cup and lip! By some means or other the housekeeper discovered that she was not a wife at all. It came out in the will that the coachman had married her mistress, and without further ado the housekeeper went to the Bedford police and told a story which resulted in her bigamous husband being arrested.

I had the job of defending this unsavoury individual, and a more disagreeable task I never encountered. Accompanied by the solicitor for the defence, I travelled down with the prisoner to the Bedford Assizes, during which time he formulated his defence. It was not a pretty story, nor was it appreciably improved by his habit of expectorating through the carriage window at frequent intervals throughout the whole journey, and I don't mind saying that I emitted a sigh of relief when we reached our destination. I do not think I could have lasted out much longer.

The defence he wished me to put forward was typical of his animal nature. He requested me to plead that he had been blind paralytic drunk when he

## FORTY YEARS AT THE BAR

married the housekeeper and was therefore unable to appreciate the fact that he was going through a ceremony of marriage at all! It can be readily believed that I was rather pleased that the jury refused to accept such a tale, and without any great hesitation brought in a verdict of guilty.

The ordeal he had gone through had considerably lessened his bulk, and he did not appear quite so sure of himself as had no doubt been the case when he first went down to Bedfordshire. In fact, he whined for mercy. He still wore his greasy moleskin waistcoat, and in all probability he donned it again when he came out of prison after serving the sentence of eighteen months' hard labour which was passed upon him. If he had had his deserts I think a good flogging and a few weeks on bread and water would have been the most adequate punishment for such a base scoundrel.

It also pleases me to record that he never benefited from the will of the woman to whom he had done such a grievous wrong. The relatives of the poor lady promptly took steps to set aside probate of the will, alleging undue influence. The coachman got nothing save the reminiscence of the champagne, the vintage port, and the 1842 brandy, which possibly tasted rather bitter in his mouth during the uncomfortable time he spent in prison. From all I could hear his fellow-inmates of the gaol were none too kind to him.

Accustomed as I have been for forty years to the tortuous processes of the human mind and the remarkable devices adopted by people to accomplish

## FORTY YEARS AT THE BAR

their ends, nothing ever made a greater impression on my mind than the story I am about to relate now.

For reasons that will be obvious I am not giving the names of the persons closely concerned in the matter. I will merely refer to them by their initials.

The scene opens upon a happy and affluent home. Mr. and Mrs. B. had been married, and had lived in perfect happiness together for thirty years. Mr. B. had retired from business and had amassed a considerable fortune. His family consisted of two daughters, the one a young lady of some twenty-eight years of age, who lived at home with her parents, and the other aged thirty-four, married and living elsewhere with her husband. This marriage was blessed with one child, who was a boy of some thirteen years of age at the happening of the events I am about to describe. The greatest affection was shown by both Mr. and Mrs. B. for their two daughters and their little grandchild. The married daughter constantly visited her parents' home, and her little son was, of course, greatly petted by his grandparents and his aunt. In short, it seemed a most happy and contented family.

Mr. B.'s health unfortunately began to fail, and he became anxious to make his will. The family solicitor accordingly, upon Mr. B.'s instructions, prepared a will, which was duly executed, the main provisions of which were that after providing legacies for his two daughters, the bulk of his very considerable estate was left to Mrs. B., his wife, absolutely.

Mr. B.'s health rapidly deteriorated. He was stricken with the dreadful calamity of complete blindness. Mrs. B. nursed and attended to her

## FORTY YEARS AT THE BAR

afflicted husband with all the tenderness and devotion which might be expected from a loving wife to a good and faithful husband. The unmarried daughter lived at home and acted as her father's secretary.

Now, the married daughter, Mrs H., had seen her father's will, and its contents seemed greatly to have enraged and disappointed her. She started an incredible campaign of blackening her mother's character which had for its object the poisoning of her father's mind against her mother. She made statements to her father to the effect that her mother had taken to drink, was leading a loose life and strongly advised him not to eat any food prepared by her mother ! She declared that her mother wanted to get rid of him, so as to come into his money, and these totally unfounded charges so worked upon Mr. B.'s feelings, that one day, egged on by Mrs. H., he ordered Mrs. B. peremptorily to leave his house, and she and her unmarried daughter were in fact bundled out of the house in spite of their tears and protests.

Mrs. H. immediately called in another solicitor, and the poor blind man, believing the statements made to him by his daughter Mrs. H. were true, was thus induced by Mrs. H. to revoke his first will and to execute a fresh one, leaving his fortune to Mrs. H. and cutting his wife's name out of the will altogether. He no doubt believed that taking advantage of his totally helpless condition, his wife had given way to drink and intended to poison him.

The poor wife wrote pitiful and touching letters to her husband, but Mrs. H., who had left her own home to reside with her boy at her father's house,

## FORTY YEARS AT THE BAR

must have intercepted these letters. Mrs. B., finding herself without a home and with no support from her husband, commenced a suit against him, praying for a judicial separation and alimony, in which suit I appeared.

Mrs. H., as a countermove, then had recourse to a most daring and wicked scheme. She took her boy to the Greenwich Police Court and induced him to swear a criminal information against his grandmother, charging her with having incited him to murder his blind grandfather! the story being that his grandmother had provided the boy with a bar of iron, instructed him to enter his grandfather's bedroom in the dead of night, then to beat the blind man about the head until he was dead, afterwards to throw open a window and shout for the police! for which service she had promised him £2!

The learned magistrate, on the faith of this sworn statement, caused a warrant to be issued for the arrest of poor Mrs. B. She was in due course arrested and charged at the police court with this dreadful offence. I was instructed to defend, and at the commencement of the proceedings *I asked the magistrate to order Mrs. H. to be out of court during the time her son was giving evidence.* My application was granted.

The lad was called into the witness box and gave practically the same story as had been sworn in the information. He seemed a nice little fellow, and gave his evidence clearly and in the simplest manner. I cross-examined him, and one of the first questions I put to him was :

“ Who told you to tell this story ? ”



MR. ALFRED COCK, Q.C.



## FORTY YEARS AT THE BAR

"Mummy!" he replied.

"Did granny ever tell you to hurt your grandfather?"

"No, sir."

"Were you fond of your granny and your grandfather?"

"Yes, sir."

A few more questions of a similar character resulted in the magistrate saying he did not believe the story told by the boy. He dismissed the charge and ordered Mrs. B. to be discharged.

The problem then arose as to what steps should be taken by Mrs. B. in the circumstances of the case. It was a difficult question to answer for the reason that the little boy was obviously acting under the dominion of his mother, and had given the evidence incriminating his grandmother at her behest.

Accordingly, unpleasant as it was, I saw no alternative but to charge the boy with committing perjury, and Mrs. H. his mother with suborning him to commit perjury. In addition they were both charged with a conspiracy to commit perjury. Process was duly obtained, and after many hearings at the police court, both mother and son were committed for trial at the Old Bailey. The case came before the Common Serjeant of London, Sir Henry Dickens, K.C., whilst Sir Henry Curtis Bennett, K.C., was taken in to lead me, and Mr. Turner (now His Honour Judge Turner) was led for the defence by Mr. Hemmerde, K.C.

It was a curious spectacle to see this strange pair in the dock, the little boy's head hardly reaching the top of the dock, whilst his mother, a very good-looking woman elegantly dressed in a long fur coat,



## FORTY YEARS AT THE BAR

towered over the child. The case lasted many days, and ultimately resulted, after a seven days' trial, in the conviction of both mother and son for the conspiracy to commit perjury. Of course, in advising the prosecution of the boy as well as his mother, it was a necessary step towards proving a conspiracy. The Common Serjeant, in the severest language, in sentencing Mrs. H. to twelve months' imprisonment with hard labour, dilated on the enormity of her conduct. He ordered the little boy to be immediately released upon his own recognizances.

Mr. B., whilst this tragedy was proceeding, grew rapidly worse. After the conviction of his daughter Mrs. H., he became convinced of the innocence of his wife. They were, I am pleased to say, completely reconciled, and he had the happiness of embracing her before his death. Probate was granted of the first will executed by him in favour of his wife, and the will executed through the machinations of Mrs. H. was pronounced against. Thus were all the wicked manoeuvres of Mrs. H. frustrated. Not only did she gain nothing, but she had to undergo the severe sentence passed upon her as before mentioned.

I don't think the smallest blame was to be imputed to the boy. He simply did what he was told to do, and when challenged by me (his mother as I have mentioned being out of the court at the time) he immediately said : " Mummy told me to say it ! "

## CHAPTER XV

**N**OTHING can ever efface from my memory the very first murder case in which I appeared. The circumstances of it were so unutterably dreadful that even now I am unable to forget the story of poor Emily Pottle and the brute who was charged with her murder.

It is a long while ago, just over forty years, and I suppose I am right in saying the general public have long forgotten the incidents of what was known at the time as the Haymarket Mystery.

It was practically my introduction to the Criminal Bar, rather a sorry one, I must confess. But, of course, a counsel has no option but to place his services at the disposal of any accused person, and once briefed, however distasteful the task may be to him, he is compelled to do his duty to his client. When you have your foot on the bottom of the ladder you are not in a position to pick and choose, and so it came about, in 1887, six months after I had been called to the Bar, that I appeared for the defence of a man named Franz Schultz, indicted for the murder of a woman with whom he had been living.

Braver hearts than mine might have quailed at the prospect of successfully defending a man on trial for his life when all the circumstances of the case were taken into consideration. Not only was the prisoner himself a man of the worst possible character, but I

## FORTY YEARS AT THE BAR

also had to fight the case with the knowledge that two of the greatest prosecutors our Criminal Courts have every known, Harry Bodkin Poland and Charles Mathews, were in opposition to me.

Poland was probably one of the most formidable Senior Counsels to the Treasury the Bar has ever seen, an opinion which is shared not only by myself, but also by a great many other men who have had experience of him. Only one whit behind him was Charles Mathews. When I repeat that I had only been called to the Bar six months it will be realised that I had something to do.

In the days I am referring to foreigners came and went in London with practically no let or hindrance. That section of the Metropolis popularly known as the West End contained hundreds of Continental *souteneurs* who not only openly lived on the immoral earnings of the *demi-mondaine* but also grossly ill-treated them. They were mostly Germans, and if the War of 1914 did nothing else it enabled the authorities to clear these pests out of the country and keep them away for evermore.

A young and good-looking English girl named Emily Pottle, who had taken to earning her living on the streets, made the acquaintance of a handsome bullying German known as Franz Schultz. In all likelihood she knew nothing of his real character. Beyond the fact that he was constantly seen in the night haunts of the West End and that he had a fascinating way with him, she knew but little of his antecedents. However, she succumbed to the advances he made and went to live with him in three rooms on the first floor of 29 Great Windmill Street,

## FORTY YEARS AT THE BAR

Piccadilly. Money, the man had none. The girl furnished the rooms and trusted to the future as to what happened.

In such a sophisticated corner of the world but a very short time elapsed before the other inmates of the house discovered Schultz' real character. The girl Pottle posed as his wife, but it soon became manifest to their mutual acquaintances that he held her in a grip of terror. Frequently in the early hours of the morning the couple would be violently quarrelling. The other tenants could hear the girl's cries, and it seemed to be only a matter of time before tragedy took place.

For something like ten months this dreadful existence went on. Continually was the girl advised to break away from her sinister companion. As often as she attempted to do so would she be compelled by threats of violence to return.

Came Whit-Sunday night, 1887, the time being about half-past one in the morning. Loud quarrelling and agonised cries, the banging and breaking of furniture, were heard from the bedroom occupied by Schultz and the unfortunate girl. Presently, it seemed to the other people in the house, the girl took safety in flight, as she was both heard and seen to rush down the stairs into the yard clad only in her nightdress, followed closely by the man, shouting obscene oaths at her in German. Then crash, there was heard in the yard the fall of a paraffin lamp followed by the smashing of glass and a woman's voice screaming: "Murder! Police!"

One of the other tenants of the house named Bulstrode, who occupied the ground floor, ran to the

## FORTY YEARS AT THE BAR

window of his room and on looking through saw Emily Pottle lying on the ground enveloped in flames. She was only about four feet away from him, and to his amazed eyes Schultz appeared to be trying to pull off the woman's nightdress and to extinguish the flames. It will be realised, in the light of after events, that the evidence of Bulstrode was materially important to my case.

There ensued a most agonising scene. Schultz immediately carried the woman to the basement, while all the time the poor creature moaned : " I am dying, take me to the hospital."

God only knows the thoughts that flew through her brain as she was being carried downstairs. She may have expected further injury, because she continued crying : " Oh, do take me to the hospital. I will say I did it myself." Assistance was soon forthcoming, and, quite nude, the poor burnt body was lifted into a cab, with a blanket thrown over it, and driven off post-haste to the Middlesex Hospital, accompanied by Schultz. But, alas ! human aid proved quite useless. When the house-surgeon, whom the Crown afterwards called as a witness at the Old Bailey, saw the girl's body he realised that there was nothing he could do.

It followed as a matter of course that the police were called in, and in a very short space of time Schultz was arrested and charged with wilful murder. But before this took place Bulstrode had seen Schultz, who informed him that the woman was dead, and he made the strange mistake of saying that she had died at the Charing Cross Hospital and not at the Middlesex Hospital.

## FORTY YEARS AT THE BAR

It was my very first murder case, and I did not require to be told that my client's life depended on one single dramatic sentence which the woman was alleged to have uttered before she died. When the case came to the Old Bailey the house-surgeon of the Middlesex Hospital said that Schultz' hands were burnt, one of them badly, the other slightly. Emily Pottle was burnt from head to foot, and there had been practically no chance of saving her life from the very beginning. As might be expected, the surgeon had asked for an explanation of a woman burnt to death being brought into the hospital in the early hours of the morning.

"She threw a lamp at me," explained Schultz.

"Then how comes it," asked the doctor sternly, "that she is burnt to death, while you have no injury excepting to your hands?"

"I tell you," the doctor continued, "that you must have thrown the lamp at the poor woman yourself, and that you burnt yourself in trying to drag off her clothing."

To that accusation Schultz would make no reply.

With the prisoner on trial for his life at the Old Bailey, I set about cross-examining the doctor concerning the dramatic events of the fatal night, and he admitted that the prisoner seemed to have done all he could do for the dying woman, who was *in extremis* when she arrived at the hospital. The doctor also made the most significant admission that the woman repeated more than once with her dying breath: "I threw the lamp at him," after which the life had sped from her poor burnt body and there

## FORTY YEARS AT THE BAR

remained nothing to solve the problem of how she had come by her death.

It is in circumstances such as these that one encounters the most contradictory statements. The man Bulstrode, who had seen more of the actual occurrence than anybody, testified in the witness box that what the dead woman had said was :

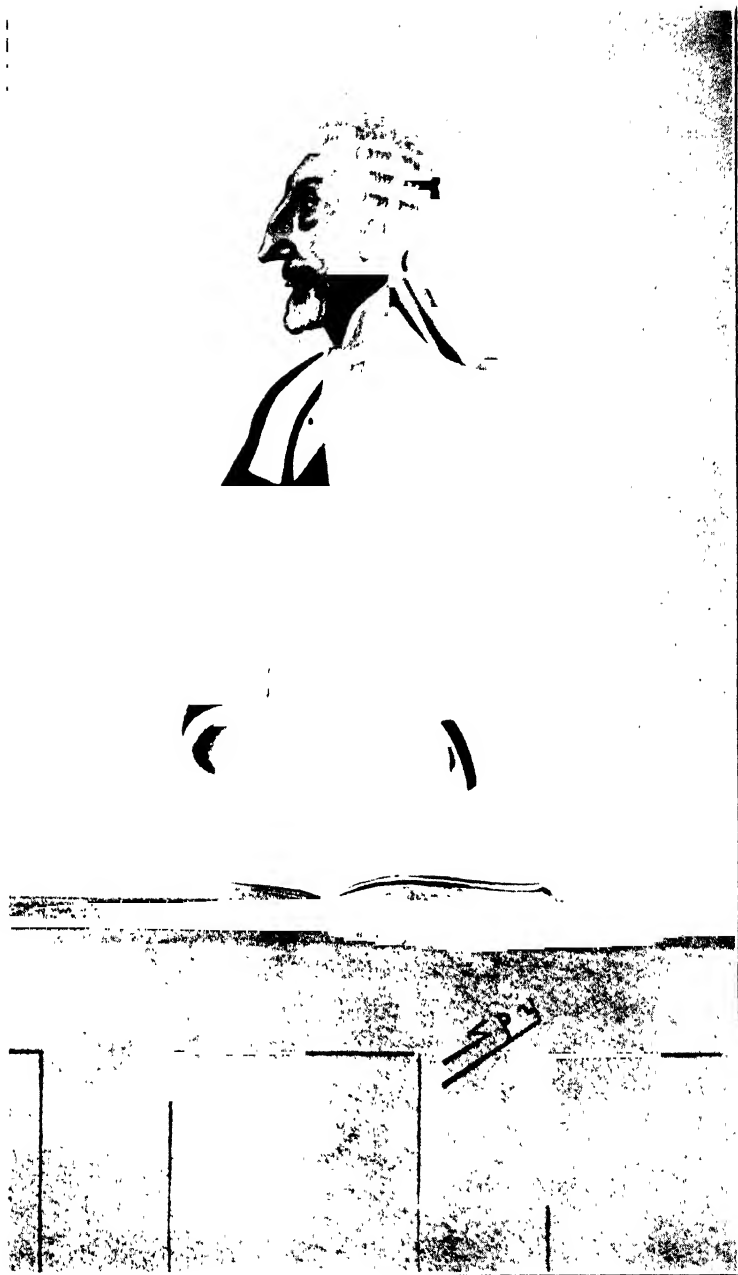
“ I am dying, take me to the hospital. I will say I did it myself.”

My instructions for the defence informed me that what the woman had said was : “ I did it myself and will say so,” but I could not get Bulstrode to admit that he was wrong. In any case, if what the woman said immediately after the tragedy and also just before death claimed her was in any way true, and if the evidence to that effect given by the house-surgeon and Bulstrode was to be accepted—as quite obviously it would be—then my client had an excellent chance of acquittal. But only Schultz knew who actually threw the lamp. The only other person who could have told the truth lay dead.

Now, what was the truth ? Did that poor, unfortunate girl, with the hand of death upon her, in that marvellous spirit of self-sacrifice which only a woman can show, go to her Maker with a lie upon her lips so that the unmitigated scoundrel whom she loved might go free ?

I am not going to answer the question. It is not for me, a mere man, to dissect the soul of a woman such as this. I have my own private opinion of the matter, and I will leave it to my readers to judge for themselves the true construction to place upon the problem.

There is no sentiment about the Crown. Poland,



SIR HARRY POLAND





## FORTY YEARS AT THE BAR

after the evidence in the case had been done with, impressively told the jury it was indeed a remarkable fact that Schultz had no burns on his body or his clothes, only on his hands. What had happened was that the prisoner, after throwing the lighted lamp at the woman, had seen her enveloped in flames screaming for help, and had naturally grown frightened of what he had done and tried to pull off her nightdress, which accounted for the burns on his hands.

"It would have been utterly impossible," said Poland, "for the woman to have thrown the lighted lamp at the prisoner, or he would have been in flames himself and probably burnt to death."

"Like a woman," concluded Poland, "her last act in this life was to try and save from the gallows the man she loved, even to the extent of telling the lie that she had thrown the lamp at the prisoner."

In theory, no doubt, Poland was perfectly right, but he had against him the undeniable fact that the dead woman had with her last breath exonerated the man in the dock. I could only suggest to the jury the improbability of a dying woman going to her Maker with a lie on her lips.

I was young in those days, desperately anxious to make a name for myself, and I spoke to the jury in that case in a way that must have carried conviction. FitzJames Stephen summed up, and the jury came back with a verdict of "Not Guilty." I felt that I had achieved a great personal victory.

But I cannot say that I felt altogether satisfied. It must have been some few months later that I was walking up Regent Street on my way to Great

## FORTY YEARS AT THE BAR

Marlborough Street Police Court when I suddenly saw the German brute I had defended. He was fashionably dressed in top hat, frock coat, gloves and cane, and I must admit he looked to be anything but what he really was. I would have passed him, but he slapped me familiarly upon the shoulder and shouted out : " How are you ? "

I did not feel at all pleased about being greeted by such a creature.

" Who are you ? " I enquired. " And how dare you speak to me in such a fashion ? "

" Don't you remember me ? " asked Schultz, looking just a little surprised.

" No, I don't," I said.

A goodly crowd of people were passing by, and our altercation naturally created some little stir. People began to stop and listen.

" Why," Schultz whispered to me, " don't you remember you got me off at the Old Bailey ? "

" Oh," I replied, " you are the man I defended for murder at the Old Bailey. I knew you when you were in the dock. Please understand I don't know you out of it," with which observation I went on my way, leaving him to face the angry crowd which had then gathered round.

I think if Schultz had attempted to make any trouble he would have received a severe mauling, for " The Haymarket Mystery " had aroused widespread public animosity against the man accused of the murder.

I never saw Schultz again. I know that he cleared out of England immediately afterwards, and I dare say he betook himself to a country where he might

## FORTY YEARS AT THE BAR

successfully bury the disgraceful story of the woman who had lied to save his worthless life.

I had a most amazing case in 1916, in which I defended a doctor charged at the Central Criminal Court with the wilful murder of a woman in the course of performing an illegal operation. Mr. Justice Avory presided on the Bench, while I had against me Mr. Cecil Whiteley, K.C., for the Crown.

It is not often, of course, that people accused of these dreadful offences are convicted of wilful murder, for the all-important reason that they do not set out on their nefarious work with the intention to kill. But in this particular case, in consequence of the dreadful injuries suffered by the dead woman, the prejudice against the prisoner became so plainly manifest that I thought it highly likely he might be convicted of the capital charge.

The law on this matter has now been greatly modified, and as I understand it, if the prisoner does not reasonably contemplate that death may ensue, the charge may be reduced from murder to manslaughter, although death in fact occurs during the course of the commission of a felony.

At all events, in the incident I am relating I sounded counsel for the crown and asked him whether he would accept a plea of guilty to a charge of manslaughter. Mr. Whiteley replied that he would, provided the Judge was agreeable.

I then went to the dock and spoke to the doctor, informing him I thought there was considerable danger of his being found guilty of murder. I advised him to plead guilty to the minor offence of manslaughter.

## FORTY YEARS AT THE BAR

"I will place myself unreservedly in your hands," replied the prisoner.

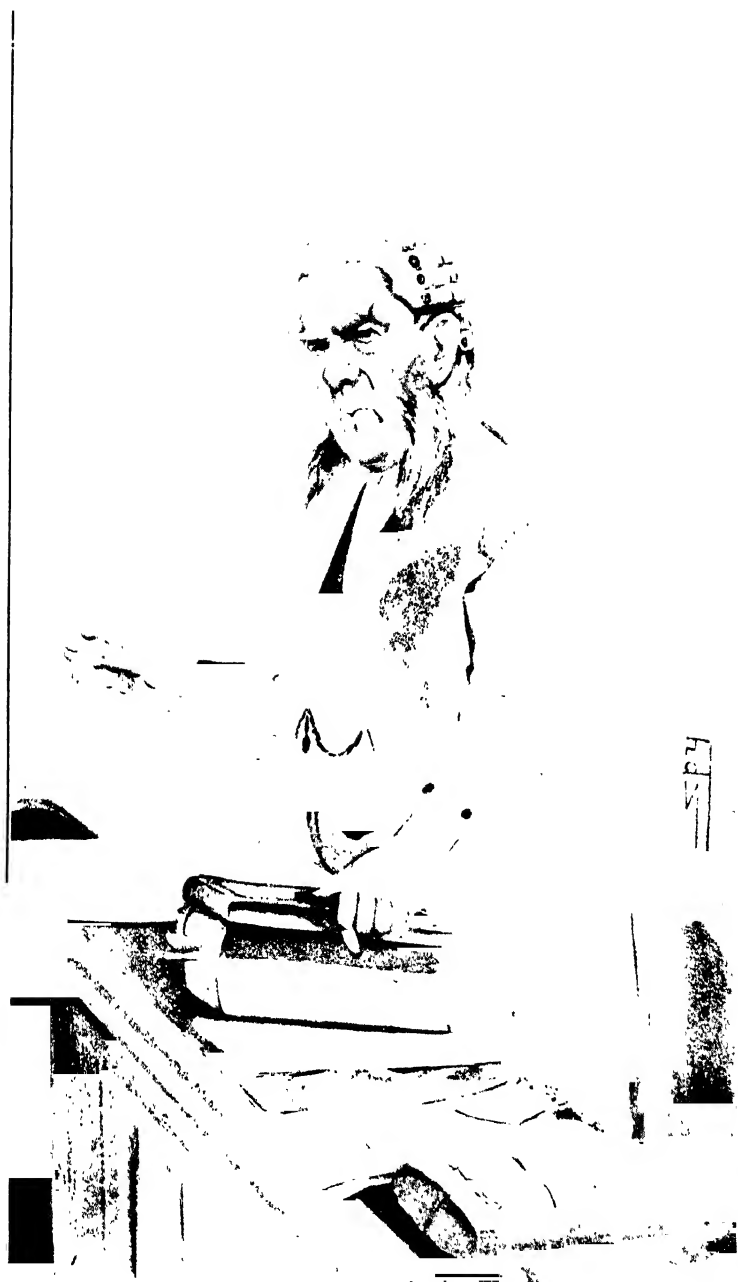
On returning to my seat I addressed the Judge and said that I had been instructed by the prisoner to plead guilty to manslaughter if his lordship would allow that course to be taken. The learned Judge consented, and the jury were directed to return a verdict of "Not guilty of murder but guilty of manslaughter."

Mr. Whiteley then proceeded to give some information regarding the doctor, namely, that he was a member of an Anarchist club, and that he had several illegitimate children, and other matters of this description. Eventually the Judge sentenced the prisoner to penal servitude for five years.

Unknown to me, the doctor decided to appeal and settled his own Notice of Motion. I received a note from Sir Leonard Kershaw, then and now Chief of the Crown Office, requesting me to call upon him. He asked me if I had seen the notice of Appeal drafted by the doctor and I said "No."

"You had better read it," advised Sir Leonard, and he then passed me a long rambling statement in the doctor's own handwriting, in which, after stating that he had been in direct communication with the Holy Ghost, he made a direct attack upon me, saying that I had betrayed him!

I was advised by Sir Leonard to be in court when the Appeal was heard, in case the Judges might wish to put any questions to me. I thanked him for his courtesy, and the next day to my great surprise I received a brief, marked with a very handsome fee, for the appellant.



SIR EDWARD CLARKE



## FORTY YEARS AT THE BAR

The case came on for hearing in the Court of Criminal Appeal before Lord Reading, then Lord Chief Justice, presiding, Mr. Justice Darling, and another Judge. The Lord Chief Justice enquired: "Who appears for the appellant?"

I rose and said: "I do, my lord."

LORD READING: "Well, I am surprised!"

MYSELF: "Your lordship is not so surprised as I am! I was briefed after the appellant had lodged his own Notice of Appeal!"

LORD READING: "Have you read the prisoner's own Notice of Appeal?"

MYSELF: "Yes."

LORD READING: "Please deal with it immediately."

I then proceeded to tell the judges that I had great misgivings as to whether, in the dreadful circumstances of the case, the jury might not bring in a verdict of murder, and that I had thought it my duty to go to the dock and explain the position to the doctor, and advised him to plead guilty to the reduced charge of manslaughter. The doctor said he placed himself unreservedly in my hands. (In passing, I have no doubt the doctor must have seen me talking to my friend Mr. Whiteley, and must have wondered what our conversation was about.)

The Lord Chief Justice, who had, of course, read the transcript of the evidence taken at the Old Bailey, had probably arrived at the same view as I had, because he was good enough to remark: "Your conduct has been quite correct."

"Well, my lord," said I, "having dealt with the



## FORTY YEARS AT THE BAR

attack upon myself, may I now proceed to attack my learned friend ? ” (Of course, meant humorously).

(I may here mention I have had always the greatest respect and friendship for my friend Mr. Whiteley, K.C.)

“ My learned friend must have inflamed the imagination of Mr. Justice Avory by telling him that the prisoner was a Socialist and Anarchist,” I said.

“ What do you understand by Socialist ? ” asked Mr. Justice Darling.

“ Will your lordship ask the Lord Chief Justice that question ? ” said I.

“ My learned friend then proceeded to tell Mr. Justice Avory that the prisoner had had several illegitimate children,” I continued.

“ Good gracious ! ” exclaimed the Lord Chief Justice.

“ Do you suppose for a moment that so able a judge as Mr. Justice Avory would have taken the least notice of such a matter as that ? ”

“ I do not know if he did,” I replied. “ But what I do know is that this information was given him by Mr. Whiteley as indicative of the prisoner’s general reputation.”

“ But my brother Avory would have dismissed it from his mind,” remarked the Lord Chief Justice.

“ Then,” said I, “ why so severe a sentence as five years’ penal servitude ? ” pointing out that the doctor was a very old man, with a good record in the past.

The Judges conferred together, after hearing my friend Mr. Whiteley, and reduced the sentence from five years’ penal servitude to twelve months’ imprisonment.

This case demonstrates the great danger counsel

## FORTY YEARS AT THE BAR

incurs in speaking to the prisoner at all, and how much safer it is to allow that to be done by the solicitor instructing.

In my early days at the Bar I was briefed with Harry Poland, Q.C., and Edward Clarke to defend a Member of Parliament who was charged with an indecent assault upon a young woman.

I attended Poland's chambers with Edward Clarke. These two "big guns" discussed the case at great length, I not venturing to open my mouth. When the consultation was coming to an end, Poland turned to me and said: "Have you anything to say, young man?"

"Yes," I said, "your client is in your chambers. Why not call him in and confer in his presence?"

"Let me give you a piece of advice," replied Poland, "on which I have acted all my years at the Bar. Never see your client in conference. I never have and never will. It is a dangerous course to take, whether it be in consultation at your chambers or whether it be at the dock. You can never be sure that your client will not turn round and make an attack upon you."

Had I followed this excellent piece of advice I would have been saved from the undeserved attack made upon me in the case I have just mentioned.

## CHAPTER XVI

THE comparatively humdrum life of a lawyer underwent a few pleasant variations during the War when courts-martial and military cases of one sort or another were continually engaging my attention. Most of them had their humorous side, as for instance the following little story.

In a subterranean bar in the Strand, very well known as the "Coal Hole," a gallant young officer engaged in imbibing some no doubt badly needed liquid refreshment grew very chatty and confidential with the gentleman behind the bar. One thing led to another. Inspired, probably, by a certain amount of alcoholic ardour, the bar-tender told the soldier that he, too, would like a commission in His Majesty's Army.

"Oh, that's easy," remarked the lieutenant airily. "You leave it to me. I'll soon get you a commission."

Lo and behold! a day or two afterwards he duly produced a portentous-looking document which set out in dignified terms that our trusty and well-beloved So-and-so was appointed to a second lieutenancy in our umpteenth regiment of foot. He gravely informed the recipient thereof, then engaged in mixing a cocktail to celebrate the auspicious occasion, that he must present himself for duty immediately.

"But I have no uniform," objected the newly-made one.

## FORTY YEARS AT THE BAR

"Just run across to Moss Brothers," said the officer casually, "and buy one. Get yourself a sword at the same time."

It says a good deal for the credulity of human nature that the barman at once doffed his apron and went up to Covent Garden to do a deal. At any rate, he returned in a very short time completely clad in a second lieutenant's uniform, Sam Browne and sword complete, the latter implement of warfare greatly interfering with his powers of locomotion. Gravely did the officer waiting in the "Coal Hole" survey him.

"Yes," he remarked, after a long and minute inspection, "you'll just about do. Now you will have to go at once and present yourself for duty at Hampton Court Palace."

Obtaining leave from his employers, the man went off, took train to Hampton Court, and arrived there rather late in the evening.

But, strange to say, he could find no military bustle about. Instead of a well-trained sentry to salute him at the gate, he could find nobody but a doddering old watchman. However, hiding his disappointment as best he could he told the guardian of the gate that he had been ordered to report for duty and required to be taken to the Officer Commanding the troops forthwith.

"Troops!" exclaimed the old man. "Troops! We ain't got no troops 'ere!"

"What! Do you mean to tell me there are no soldiers here at all?"

"N'ere a one."

It took the cocktail shaker quite a time to come to the conclusion that he had made an arrant ass of

## FORTY YEARS AT THE BAR

himself, but as soon as he realised it he returned, as fast as the troublesome sword between his legs would allow, to the "Coal Hole," mightily angry, as might be expected, and vowing all manner of sanguinary vengeance on the misguided humorist who had "spoofed" him. Unfortunately, the matter didn't end there. The victim even went to the length of reporting the facts to the War Office, with the result that a court-martial was ordered.

In due course there took place at the Westminster Guildhall a trial before the late Lord Cheylesmore, supported by a most formidable-looking gathering of twenty other general officers—all to try a practical joke. I appeared for the defence of the prisoner, while Archibald Bodkin had the case for the prosecution. The charge was that dear old one so beloved of the Army—conduct prejudicial to the good order and discipline in His Majesty's Army. Like charity, it covers a multitude of sins.

I made Bodkin very wild by persisting in describing the scene of the joke as the Coal *Hole*—with pronounced emphasis on the word "hole," and I cross-examined his principal witness for the prosecution to discover whether he really believed that commissions in His Majesty's Army were so lightly bestowed.

"I don't see why not," said the barman, which sent all the officers trying the case into shrieks of merriment.

"And you really believe," I asked him, "that an officer would go down into a Coal *Hole* and give a commission to a man without the slightest enquiry into his character or anything else?"

## FORTY YEARS AT THE BAR

"I didn't know any better, Sir."

At all events, the court-martial developed into such a roaring farce that my young and good-looking client escaped with nothing worse than a severe wiggling. What the barman ultimately did with his uniform and sword I never discovered. Probably they found their way back to Moss Brothers.

Most of the courts-martial in which I took part were not of a particularly serious nature. Under King's Regulations you can be shot at dawn for the most trivial offences, and, as all soldiers know, the disobeying of a lawful command is a crime punishable in the field by death. But at home the extreme penalty was never exacted. "Lawful commands" were so frequently unheeded that it would have been utterly impossible to have taken notice of every offence, added to the fact that the people who gave orders were very often totally in the wrong.

I had a case at Lincoln defending a lieutenant in the Flying Corps whose machine had crashed, breaking his thigh. After a long stay in hospital he was discharged as cured, but I have no doubt that the experience had thoroughly unnerved him. At any rate, some nine months after, when he was ordered by his squadron-leader to take up a machine, he refused.

"If I do," he expostulated, "I shall faint."

"You fly," said the squadron-leader, "and chance it."

"I shall do nothing of the kind. I don't feel well enough, and I will not fly."

Upon which he was placed under close arrest, charged with disobeying a lawful command.

## FORTY YEARS AT THE BAR

I proceeded to Lincoln to defend the boy at the court-martial which had been ordered. I arrived there late at night, found a room in a miserable hotel where, *en passant*, a part of the ceiling fell on me during the night. I got no sleep worth speaking of, and my temper wasn't greatly improved when, it being a frightfully hot day, I set out with my brief-bag carrying a number of heavy books *en route* to the aerodrome. I couldn't get a cab for love or money.

With the perspiration pouring out of me I arrived at the camp, where an orderly took me into the presence of the O.C., a most cheery gentleman sparkling with good-humour and fun.

"Morning, morning, morning," said he.

"Good morning," I replied as politely as I could.

"Have a whiskey and soda?" suggested the O.C.

"No, thank you," I said, though I would have given the world for one.

"No court-martial to-day," remarked the O.C., staccato. "Spotted fever! Have a whiskey and soda?"

"I will not have a whiskey and soda," I snapped at him. "When did you first discover this?"

"Late last night. Have a whiskey and soda?"

"Confound you and your whiskies and sodas," I exclaimed. "Why did you not communicate with the solicitors instructing me and save me this dreadful journey, to say nothing of the horrid experience of sleeping in a dilapidated hotel where the ceiling fell down in the night?"

"Sorry, sorry, sorry. If you are sharp about it," pulling out his watch, "you can just catch the eleven o'clock express to London. Whiskey and soda?"

## FORTY YEARS AT THE BAR

"No," I said indignantly. "You've brought me here on a fool's errand and I don't want your whiskey."

In high dudgeon I went off, gasping for a drink but too proud to accept it. I proceeded Lincolnwards top speed, and had just reached the beautiful cathedral when a motor-lorry travelling at a great pace and creating much noise caused me to look round. It stopped in front of me. A mechanic jumped down and asked me if I was Mr. Abinger.

"Yes," I replied.

"Well," said the man, "you've got to come back to the aerodrome. The O.C. has sent me to bring you."

"I am not going back," I informed him. "I have had enough of your aerodrome to last me for to-day. I'm off to London."

"Well, Sir," the mechanic said, "the O.C. said if you would not come back we were to take you back."

I took stock of the situation. There were two or three hefty mechanics in the motor-lorry, while the one addressing me seemed a rather determined sort of young man. I thought it would be best to go back.

I had a most uncomfortable ride. The lorry had no springs and I sat on the bare boards expecting my teeth to be jolted out of my mouth. At last we reached the aerodrome, where I was immediately reintroduced into the presence of the O.C.

"Oh, there you are!" he remarked. "Have a whiskey and soda?"

"I will not touch your whiskey and soda," I said



## FORTY YEARS AT THE BAR

angrily. "What is the meaning of treating me in this extraordinary fashion?"

"Sorry, sorry, sorry. Made a mistake. No spotted fever. Broke out Carlton Camp—not here. Get into your robes. Court-martial waiting for you. Have a whiskey and soda?"

"The devil take you and your whiskey and soda," said I.

The court-martial itself does not greatly matter. I got my client acquitted. Nobody bore me any animosity. The O.C. invited me to lunch.

"Have a whiskey and soda?" he said the moment we got into the mess room. This time I did not refuse.

Once upon a time, like a good many other men, I harboured ambitions of a political nature. I was a full-blooded Tory and placed my services at the disposal of the party whenever they wanted a speaker.

One afternoon I was waited upon by one of the agents of the Conservative Association, who asked me if I could leave immediately for Wilton, on the other side of Salisbury. Mr. Walter Long, afterwards the late Viscount Long, had intended to address a meeting, but for some reason or other could not attend. Would I be kind enough to fill the breach?

I just had time to get to Waterloo and reached Salisbury without dinner, very hungry and tired. I found a dogcart waiting to drive me to Wilton. To add to my discomfort a heavy snowstorm was raging. When I reached Wilton I was no doubt in a thoroughly bad temper. I was introduced on the platform, and

## FORTY YEARS AT THE BAR

I became aware of the Chairman beckoning me with his finger, which I, in a fatigued condition, resented and ignored. Presently someone came up to me and said : “ The Chairman wishes to speak to you.”

I went and said : “ What is your pleasure ? ”

“ I wish you to tell me,” asked the Chairman politely, “ what subject you propose to address the meeting upon ? ”

“ I certainly shall not satisfy your curiosity,” said I. “ I came here to speak, not to you, but for the Conservative Association.”

“ Well,” replied he, “ I shall not call upon you at all.”

I bowed my acknowledgments to him, called for the dogcart, drove through the snow, which was still raging, to Salisbury, and thence to London and to the Temple—my dinner consisting of a few sandwiches. I wrote next day to Colonel Middleton, saying that I thought it too bad to take busy lawyers from their chambers in the Temple in the depth of winter and travel through the snow for the sake only of addressing a meeting and to be greeted by any local tradesman who happened to be in the chair.

A few days afterwards I received a letter from Colonel Middleton telling me that the best answer he could make to my letter was to enclose one from the Chairman himself, and that is what it said :

“ DEAR SIR,

Please convey to Mr. Abinger my regret for upsetting him. The fact is we have a strong Nonconformist body of voters about here, and I was anxious to know what views the learned Counsel was going

## FORTY YEARS AT THE BAR

to express, and ventured to ask. He declined to tell me. Please express to him my sorrow at his long journey having been taken in vain.

Yours faithfully,

PEMBROKE."

My "local tradesman" was, of course, the Earl himself!

It is an old saying, and a perfectly true one, that fools rush in where angels fear to tread. I myself participated in a classic instance a good many years ago in an action heard in the Chancery Division before the late Mr. Justice North, which had for its object the establishment of the public right in the River Thames.

A lady named Smith owned an estate on the banks of the river near Maidenhead, and she had taken it upon herself to prohibit any boats or punts mooring opposite her property for the purpose of fishing.

My client, a man named James Andrews, had for a good many years earned his living by taking out fishing parties, and on a particular day had moored his punt opposite Mrs. Smith's land. The lady sent her bailiff to tell Andrews to clear out. He declined to go, whereupon a scuffle ensued which resulted in Andrews being thrown into the river. He escaped with nothing worse than a wetting, but the matter did not end there. Mrs. Smith rather unwisely took legal action to preserve what she believed to be her rights.

Now, by Magna Charta, the right to fish in a tidal navigable river and in the sea was reserved to His Majesty's lieges. The point at issue in this particular



LORD HENN-COLLINS



## FORTY YEARS AT THE BAR

case was whether the Thames at Maidenhead could be deemed to be a river of the kind I have mentioned. I went to the British Museum, and after a most wearisome search found that salmon had run even so high up the river as the estuary at Maidenhead. But since the building of the lock at Teddington I could find no evidence of any salmon being caught above that place. In the reign of Queen Elizabeth there was frequent mention of salmon running in the Thames.

Henn Collins, Q.C., afterwards Lord Collins, Master of the Rolls, led me for the defendant, while on the other side was Cozens Hardy, Q.C., afterwards Lord Hardy, also Master of the Rolls.

The case created a considerable amount of public interest, affecting as it did the innocent and popular pastime of Londoners to fish in the upper reaches of the Thames. A large fund had been raised by public subscription to defend the action.

No title could be obtained by proscription, because fishing is a private *à prendre*. Therefore, Henn Collins, in view of my research at the British Museum, thought our only chance of success was to plead a lost grant.

There is no doubt that a riparian owner, subject to certain Acts of Parliament, is the owner of the bed of the Thames *ad mediam fluminis* in the middle of the river.

It appeared to Henn Collins as a pretty hopeless fight, but we did our best. He left me to sum up the defence, being himself engaged in the House of Lords. In the course of my address to Mr. Justice North, after pointing out that for certainly a hundred years

## FORTY YEARS AT THE BAR

the public had fished without interference in the Thames at Maidenhead (indeed, we had called an old man getting on for a hundred years old to prove this), I argued that the Court must assume some lost grant. I then tried, in a most unchancery-like manner, to capture the learned Judge by an argument *ad hominem*, and used language something like this :

“ The plaintiff’s bailiff, with great brutality, flung Andrews into the river, leaving him to get ashore if he could—a course of conduct too dreadful to contemplate. Anybody who could commit such an act must be a ruffian of the worse description.”

I proceeded in this strain for a few minutes, noticing to my surprise that Cozens Hardy, indeed, every barrister in court, were trying to control their laughter except the Judge, who was fidgeting about on the Bench uncomfortably.

When the Court adjourned for lunch Cozens Hardy came up to me and said :

“ You did that very admirably, young man. You must have had courage to pull the Judge’s leg like that.”

“ I did not pull the Judge’s leg,” I replied, completely ignorant of having committed any *faux pas*, “ and to tell the truth, I could not understand why you were all laughing.”

“ Ah ! ” said Cozens Hardy, “ don’t you try to spoof me.”

“ Well,” I replied, “ will you be good enough to explain ? ”

“ Why, don’t you know ? ”

“ Know what ? ” I asked.

## FORTY YEARS AT THE BAR

“Why,” said Cozens Hardy, “his lordship and A. L. Smith (another Judge long since deceased) were fishing in a Scotch river and unwittingly were in a part of it where they had no right to be. A gamekeeper came along, warned them off, and demanded their rods. They declined to part with them or to move off, and North then took the gamekeeper and flung him in the river. Police court proceedings followed, but they were amicably settled.”

Collapse of your humble servant !

In after years Cozens Hardy, whenever I appeared before him in the Court of Appeal, always used to preface his openings by saying :

“Well, Abinger, anything about fishing in this case ? ”

I met Maitre Labori when he came to England as a guest at the Bar of this country, after his magnificent defence of Captain Dreyfus, commencing with his famous “J'accuse.”

He was a splendid figure of a man and a magnificent advocate. He told me that in his younger days he was defending a prisoner for murder at the Cour d'Assize, in Paris. The task was an almost hopeless one. The President of the Court was against him, and the Procurer of the Republic appeared equally spiteful. Labori was addressing the jury, who, as he described to me, “looked at him with square jaws and unresponsive faces,” showing him by their demeanour that they were all hostile to his client.

“Then,” said Labori, “I had a sudden inspiration. Without being noticed, and as if by accident, I upset an inkpot, took out my handkerchief, steeped it in



## FORTY YEARS AT THE BAR

the ink, and then started an outburst of eloquence to the jury. Being summer-time, I took up my handkerchief to wipe my face, and of course covered it with ink, provoking a roar of laughter from the jury and the President. It was the turning-point of the case and I secured an acquittal."

## CHAPTER XVII

**I** HAVE known four Directors of Public Prosecutions, Sir Augustus Stephenson, the Earl of Desart, Sir Charles Mathews, and Sir Archibald Bodkin.

It is a very difficult office to fill. The holder of it must be a man with a considerable amount of experience in the Criminal Courts, and it naturally stands to reason that any man who possesses a flourishing practice is not over-anxious to throw up his briefs for the arduous duties of Director.

The hours are long, I might almost say unending. The pay does not equal that of a Judge, although to be sure the knowledge of law required for the post is equally as great.

I think the country is exceedingly fortunate in having such an able man as Sir Archibald Bodkin as the present Director of Public Prosecutions. He was undoubtedly one of the best criminal lawyers at the Bar, while his kindly nature endeared him to everybody with whom he came in contact. I have been to him many a time, when trying to unravel some legal difficulty, to ask his assistance, which he has never refused to afford me. I confess I was greatly disappointed when he accepted his present position. I had always hoped to see him on the Bench. However, I wrote him a letter congratulating him upon his appointment, telling him the many kind

## FORTY YEARS AT THE BAR

things I had heard said of him at the Bar and in Court.

He replied to my letter, in characteristic fashion, saying "that he could only understand the kind things said about him by his brethren at the Bar upon the doctrine of *de mortuis nil nisi bonum*."

The cases which are launched from the Department of which he is the head are remarkable for the precision and care which is taken. He has a large staff of very efficient gentlemen at his disposal whose names are familiar to the public, and whose duty it is to conduct the prosecution at the police court and afterwards to instruct counsel if committed for trial. These gentlemen are, with one exception, all solicitors. That exception is Mr. Morgan, who is a member of the Bar.

Bodkin used always to open his case by informing the jury that he appeared for the Director of Public Prosecutions, which used to provoke me, thinking, as I did, that the jury might believe that if the Crown with this great advocate started a prosecution it was the duty of the jury to convict.

Now, all matters, save perhaps prosecutions concerning high matters of State, come under the jurisdiction of Sir Archibald Bodkin and Sir Guy Stephenson, the Assistant-Director, and it is only in matters of supreme importance to the State that the assistance of the Attorney-General for the time being is invoked. Of course, in theory the whole Department is under the control of the Attorney-General, but in practice it is, as I have pointed out, left to the Director to decide whether he will order a prosecution, the whole cost of which, of course, comes out of the

## FORTY YEARS AT THE BAR

public purse, or leave the parties to institute a private prosecution.

Sir Charles Mathews was one of the most agreeable men I ever met. Not only was he a brilliant advocate and a fine orator but a wonderful actor. He used to wear his robes differently from any other barrister. His wig would be drawn right away from his expansive forehead—well at the back of his head. His gown would be dropped from his shoulders to his elbows.

He had at his command the most wonderful eloquence and pathos when defending, but was a most deadly prosecuting counsel when he appeared for the Crown. Some of his opponents used to think he unduly pressed his cases. I remember a heated passage of arms between him and Henry Dickens, now Common Serjeant. Dickens complained in court that Mathews was not presenting his case fairly. An hour or two afterwards in the robing-room Dickens came up to Mathews and said :

“ I suppose, Mathews, our friendly intercourse is now at an end ? ”

“ Not at all, my dear fellow,” Mathews replied, taking Dickens by the hand and giving him a hearty grip and saying many pleasant things to him. Afterwards, I believe, they remained the warmest of friends until poor Mathews’ death.

Alas, the brilliant oratory of Mathews can no longer be heard ! The innumerable thrilling passages in his speeches which went to one’s heart are only remembered by those who heard them. They are replaced in these days by a sort of conversational and friendly chat by counsel with the jury, without any pretence to eloquence, rhetoric or metaphor. Marshall Hall

## FORTY YEARS AT THE BAR

was the last counsel gifted with both eloquence and pathos, and who seemed to throw his whole heart and soul into his case.

If Lloyd George had been at the Bar instead of starting life as a solicitor, in my opinion he would probably have been at the head of the profession. His powers of repartee and denunciation, his admirable similes and metaphors, are unrivalled. As a specimen of his powers of *tu quoque* in a speech he made not so long ago he prefaced his observations by saying :

“Ladies and Gentlemen, I am here——”

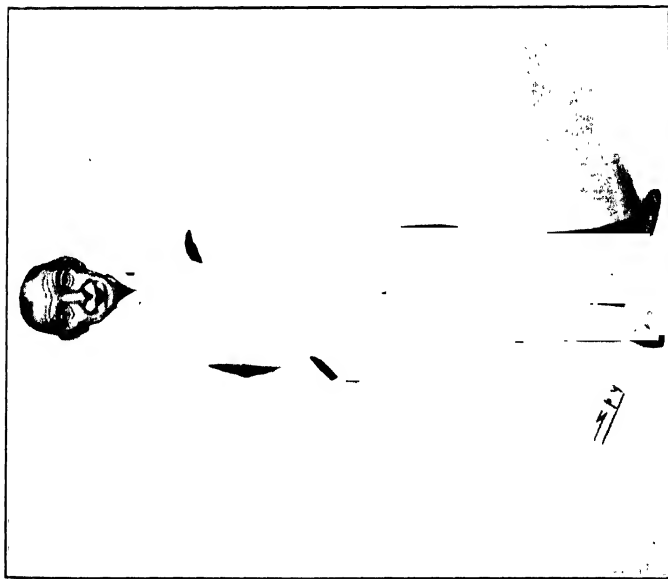
“So am I,” shouted a man in the audience.

“Yes, but you are not *all* there,” replied Lloyd George without a moment’s hesitation, amidst roars of laughter.

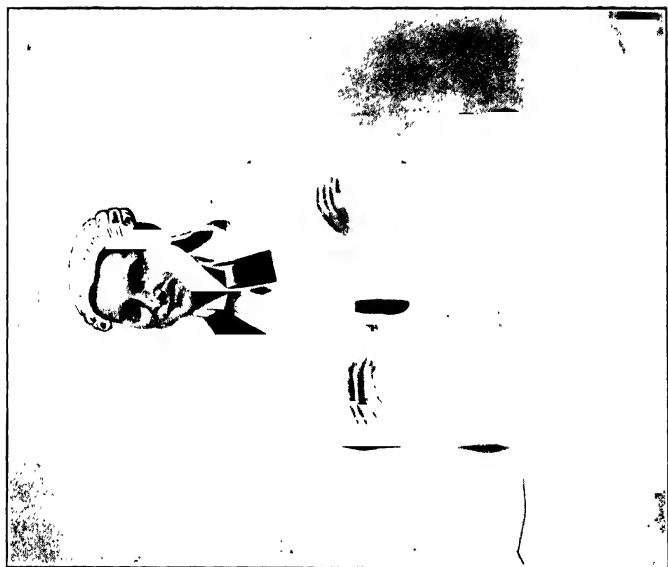
Many years ago I was briefed at the Central Criminal Court to prosecute a clergyman for an offence which it is not necessary to mention.

He retained Charles Mathews as a counsel. I was instructed by the Court and determined to do my best, and have no doubt I did, because in spite of Mathews’ admirable advocacy his client was convicted and sent to prison, and the only thing worth recording is the method in which in those days counsel sought to obtain a verdict.

“What a thousand pities,” said Mathews, “that of all men my learned friend should be selected for the prosecution! Why, Christianity to him is anathema, and he must have been imbued from the earliest youth with a dislike of it!” (referring, of course, to the fact that I was one of perhaps half a dozen Jews then practising at the Bar).



LORD DESART



SIR CHARLES MATHEWS



## FORTY YEARS AT THE BAR

He went on in this strain for some time. Whilst lunching in the Sheriff's room the Lord Mayor said to Mathews :

" You were rather down on your learned friend, weren't you ? "

Mathews replied : " Pure advocacy, my lord," in the most delightful manner.

" Yes, but what did your learned friend think of it ? " said the Lord Mayor, looking at me.

" I thoroughly enjoyed it," I observed, " as I always do when I hear my learned friend pleading. It did not offend me in the least," and I always counted Sir Charles Mathews as one of my friends until he died.

His advocacy did not appeal to some judges. I can remember him in a trial for murder before the late Mr. Justice Cave, when Mathews was prosecuting. The deceased man had been sitting writing at a table late at night when the prisoner had entered through a French window and, armed with an axe, had come suddenly behind the victim and killed him.

Mathews drew a most exciting and dramatic picture of the scene. " The victim was writing at the table. No sound disturbed the silence of the night. No light except that caused by a small lamp on the table at which the deceased man was writing. The hour was approaching midnight when with stealthy step the prisoner silently and slowly came towards the deceased man, and raising his hand——" At the moment Mathews was about to describe the fatal blow he was interrupted by the Judge :

" Did the prisoner hit the deceased man on the head with a chopper ? That is the whole story, gentlemen."



## FORTY YEARS AT THE BAR

Mathews in a fury sat down and refused to continue his speech.

I dare say a good many judges rather disliked his theatricalism. Of course, he was the son of a great actor, and I have no doubt the stage was the sufferer when his father elected to send him to the Bar. There is no man in the legal profession living to-day who in my judgment is gifted with the remarkable qualities possessed by Charles Mathews. But, as I have said before, that is largely due to the fact that eloquence is now a thing of the past. Judges do not encourage it.

Lord Desart filled the important office of Director with dignity, and commanded universal respect. He was never closely in touch with the Bar like Mathews and Bodkin, but his judgment was sound, and the prosecutions which he authorised were in most cases successful.

Of course, prosecutions undertaken by the Director being conducted at the expense of the State require very great discrimination on his part to decide whether the persons aggrieved should be left to their own resources or not. In many cases if it were left to the public to bring a malefactor to justice he would very often escape for two reasons : (1) the expense of the prosecution, and (2) the danger of an action for malicious prosecution. I cannot call a case to mind undertaken by Lord Desart which the result did not absolutely justify.

Of Sir Augustus Stephenson I have little recollection, but I can still recall his pleasant and kindly ways and his courtesy to the veriest junior at the Bar. His family is well represented by his popular son,

## FORTY YEARS AT THE BAR

Sir Guy, now the Assistant-Director of Public Prosecutions. Sir Guy had a distinguished career at the Bar, and was as greatly esteemed then as he is now. Not infrequently he attends personally at the Central Criminal Court to reinforce counsel representing the Crown.

Horace Ivory, one of the best counsel ever employed by the Treasury, has changed but little in his personal appearance during the forty years I have known him. Always one of the first to arrive at his chambers in the Temple, and invariably one of the last to leave, he is a man who has worked hard for the success that has come his way. Nor did he leave his work behind him when he went home. I think I am right in saying that his brilliant career at the Bar and also on the Bench is entirely due to a tremendous ability in both common and criminal law.

Of all the counsel practising at the Old Bailey when I made my appearance on the scene he is the only one who has been appointed a Judge of the High Court. For reasons which are somewhat obscure His Majesty's Government will not look at members of the Junior Bar when it comes to a question of making a Judge. Ivory, of course, was clearly marked out for a seat on the Bench, because he possesses the faculty of analysing the salient points of a case in a manner that brooks of no discussion. He is seen at his best in the conduct of a murder trial. I cannot recollect another Judge whose personality dominates everybody in court like Horace Ivory. Nature ordained him to sit in the seat of judgment.

I have been against him many times and the apparent austerity of manner which he displays on the

## FORTY YEARS AT THE BAR

Bench was typical of him at the Bar. But I think it is only skin-deep—he is really a man of the kindest character. He undoubtedly takes very strong views in the cases which are tried before him, and expresses them or, by his manner, soon shows his thoughts. He appears to make up his mind who is right—and who is wrong—very quickly, which, after all, is only natural in a man strongly endowed with a sense of justice.

In Society I have heard him described as the “Silent Knight,” listening to everything but saying very little. That, also, is the manner in which he conducts his cases. If he does say anything it is certainly very much to the point.

The old and trite axiom that some men achieve greatness, while others have it thrust upon them, is true enough to a certain degree. One of the finest Judges we ever had, the late Lord Alverstone, Lord Chief Justice, was popularly reputed to have sung himself on to the Bench. I am not going to corroborate that entirely, but I do know that when he was M.P. for the Isle of Wight he used to charm the impressionable residents of that delectable isle with a well-trained baritone voice, which gained him more supporters than all the pie-crust promises of a party politician. And this in the days when “votes for women” had not been thought of.

“Dick” Webster, as we all knew him then, was a fine athlete and a typical Englishman in every way. He made a great success of the Chief Justiceship, and when he came up to the Old Bailey to try a case he did not allow counsel to dictate to him. The striking dignity of appearance allied to the most



LORD ALVERSTONE



## FORTY YEARS AT THE BAR

pronounced fairness of mind made him an ideal Judge.

He was so delighted once with my singing at a concert given for charity that he called me up to him and asked me to sing again, slapped me on the back, and spoke to me in so agreeable a manner that some of my friends who were present observed to me : " You have a County Court in your pocket for sure." But Webster had this charming manner with everyone, and I have no doubt he completely forgot the interest he appeared to take in me. It was he, however, who assisted the late Judge Rentoul in becoming one of the Commissioners at the Central Criminal Court and Judge in the City of London Court.

Rentoul, like Webster, took a considerable interest in the Conservative Party. He was greatly in demand as a speaker, and there is no doubt that many Members of Parliament owed their return to him. Charles Russell once accused him of being a bad platform speaker, and a very angry correspondence passed between the two. Rentoul demanded an apology, why, I could never imagine. If Russell did not admire his speaking he was quite entitled to say so. At any rate, he uncompromisingly refused to apologise and the two never spoke to each other again.

I had an immense admiration for Montagu Williams. He left behind him at the Old Bailey a long and honourable record of brilliant work as a defending counsel. Unfortunately, he was overcome by illness and could not carry on with his work as a pleader. He therefore accepted a police magistracy, in which he was utterly wasted.

One day before him, waiting for a case to come on,

## FORTY YEARS AT THE BAR

I sat fidgeting in my seat while two little solicitors were wrangling over some obscure point of law. I could see poor Williams getting red in the face with annoyance.

"Just one moment, please," he said to the disputants, and came over to the counsel's seat where I was sitting, where he remarked to me, *sotto voce* : "Did you ever hear such a damned lot of nonsense in your life ?"

He then returned to the Bench, and addressing the two solicitors said : "Now, will you kindly proceed with your very interesting argument."

One of the very best *bon mots* I ever heard from the Bench came from the late Allan Lawrie, Deputy-Chairman of the London Sessions. Lawrie was trying a coloured gentleman who had been staying at a couple of the most expensive hotels in London as the Emir of Kurdistan. Unfortunately, His Highness had neglected to provide himself with sufficient money to meet his bills, and as there seemed to be some little doubt about his claims to the sovereignty of his alleged native land, the police were called in. In due course the Emir went into the witness box to tell the story of his troubles.

"Only give me time, Sir," he cried to Lawrie. "Only give me time and I shall pay everybody."

"Oh, I'll give you 'time' all right," grunted Lawrie.

And he did.

Another specimen of judicial humour concerns an individual I defended at the Old Bailey many years before the present palatial and up-to-date building had been erected. The acoustics of the old courts

## FORTY YEARS AT THE BAR

were so remarkable that you heard your own voice come back as an echo. In the particular case to which I am referring the Judge passed sentence of seven years' penal servitude, and as he did so the prisoner beckoned to me from the dock and said : " Did the Judge give me fourteen years ? "

" No, of course not," I replied. " You've only got seven years " (which was no doubt quite enough for the poor fellow to go on with).

" Well," said the prisoner, scratching his head (I regret to say he was an " old lag," and took it all as a matter of course), " I distinctly heard him say seven years' penal servitude twice ! "

As a matter of fact, I thought that the seven years was far too stiff a sentence, and I got up to ask the Judge if he could not possibly see his way to reduce it. His lordship declined, and took advantage of the opportunity to make the following witty and philosophical observation :

" After all, Mr. Abinger, what is the use of worrying ? One has to go somewhere ! " I think this the worst justification of a harsh sentence I have ever heard from any Judge.



## CHAPTER XVIII

ONCE upon a time I used to appear in some amusing cases involving the Gatti brothers, the two Italians who made a fortune in the then great restaurant known as the Adelaide Galleries. In the 'eighties and 'nineties it was one of the most popular places in London. The changing times somewhat dimmed its prestige, but under the able management of our old friend Auguste Oddenino I am hopeful that it will recover its former glory.

One of the best cases the Gattis gave me concerned that of a hungry and impatient diner who called a waiter and asked him to pass the cruet, which was certainly not more than a yard away and on the same table. The waiter replied: "Voilà, Monsieur!"

"Garçon," replied the impatient diner, "pass me the cruet!"

"Voilà, Monsieur," repeated the waiter, pointing to the cruet.

The "I.D.," becoming impatient, jumped up, seized the cruet, and dealt the bald-headed waiter a terrific blow on the head with it. Result—action by the waiter against Messrs. Gatti, it being pleaded that he was acting within the scope of his employment. He obtained substantial damages.

Another case in which I appeared for Messrs. Gatti was as follows: In a certain part of the restaurant pipe smoking was strictly prohibited. A customer

## FORTY YEARS AT THE BAR

sitting in that part of the establishment was enjoying his pipe when a little Italian waiter came up to him and said : " Remove that pipe."

The customer declined.

" I do not care for your regulations," said he. " I paid for my dinner and I shall smoke my pipe. I see other people smoking cigarettes and cigars. Why should I not smoke my pipe ? "

" You must remove it," said the waiter.

" I shall not," declared the diner.

Hereupon the waiter seized the pipe, pulling it out of the client's mouth and in so doing injured his teeth. The customer brought an action against Gattis and again they had to pay damages.

I was called upon to defend Gattis' head waiter. He had been evincing too much affection for one of the female cooks, with the result that he found his way into the dock at the Old Bailey on a very serious charge.

There was little corroboration save the evidence of an Italian woman, who swore that she heard the head waiter address the cook in the following language: "*Cara adorata sympactica mia.*"

This was the stumbling-block which I had to get over, and in addressing the jury I described the warm excitable temperament of an Italian and the exaggerated language which he used, and ventured to say that the above passionate declaration translated into commonplace English really amounted to nothing more than " My dear ! "

The jury acquitted him, and as I passed out of court into the lobby the foreman of the jury said to me : " Very close thing, Sir."

## FORTY YEARS AT THE BAR

Quite the longest case in which I have ever appeared was that of *Rex v. Stoddart*, the latter a gentleman who ran a number of sporting newspapers. It appeared that he had been running football competitions and distributing the prize-money in a way that did not give unalloyed satisfaction to his readers. For some weeks he had drawn from his bankers a £1000 note, which was supposed to be sent to the winner in whatever part of the country he lived, but apparently everything was not *couleur de rose*. Dissatisfied people made enquiries, alleging that the prize-winners were fictitious, and eventually the matter got into the hands of the City Solicitor, who instructed R. D. Muir to prosecute.

After Stoddart's banking account had been examined it was ascertained that all the £1000 notes which he had sent to the winners of the competitions were repaid into the account. It was also discovered—or allegedly so—that the ingenious Stoddart had a staff of clerks who for a few shillings travelled into different parts of the country and either engaged a room or received permission for letters to be addressed there, and that Stoddart's agents would then collect the letters and return them to him.

A very important case it proved. Millions of people were interested in it, and when I appeared at the Old Bailey to defend the prisoner before the late Sir Forrest Fulton I found Richard Muir, his brother-in-law W. H. Leycester, and young Forrest Fulton, the son of the Recorder, against me. The case lasted no less than six weeks, which may give some little idea of the work involved in it. There was a tremendously long indictment charging Stoddart with

## FORTY YEARS AT THE BAR

obtaining money by false pretences, and the Recorder told the jury, as a matter of law, that as soon as the prosecution proved payment to the prisoner of the entrance fees, the burden was shifted upon him to prove that he had in fact paid the winner.

I shall not go into the inordinately long and complicated details of this highly important case. It will be quite sufficient for me to say that the jury, after a lengthy deliberation, brought in a verdict of guilty on all counts. Sir Forrest Fulton sentenced Stoddart to eighteen months' imprisonment with hard labour, and also ordered him to pay the whole of the costs incurred by the prosecution, amounting to many thousands of pounds. I do not suppose the fact that he had to pay money seriously worried Stoddart, because he had already admitted in the witness box that he was worth approximately a quarter of a million. But he could not—and did not—contemplate with any equanimity the prospect of “doing” eighteen months in a prison cell. I, also, felt confident that I could get the verdict reversed, and on my advice an appeal was lodged. I asked Sir Forrest Fulton for leave to appeal on the point that the onus was not upon Stoddart to prove that he had paid the winners of his competitions, but he refused.

When the appeal came on Charles Gill was briefed to lead me, and after the case had proceeded for a day the Lord Chief Justice, Lord Alverstone, thought the question of such importance that he adjourned the hearing of the case until a full Court of Appeal could be called.

The adjourned hearing lasted for ten days, and after demolishing the points raised by Gill the Court

## FORTY YEARS AT THE BAR

proceeded to deal with the objections I had made in the Court below. They were evidently more potent than those advanced by Gill. The conviction was quashed. Gill, during the whole time that he was arguing, had more or less kept me in order, and would not let me interrupt or address the Court, which rather nettled me. When the appeal was allowed I could not resist the temptation and exclaimed to Gill: "My point!"

"My argument!" replied Gill.

As I was leaving the Law Courts, feeling rather pleased with myself, I saw Stoddart waiting outside in a magnificent motor-car. Said he, after profusely thanking me for what I had done: "Will you accept this motor-car as a present? It cost me over two thousand pounds, but I think there is nothing too good for you."

"Well, that's very kind of you," I replied.

"Will you take it away now?" he asked.

But I was still in robes, and I could only point out the impossibility, not knowing how to drive, of taking away the car there and then.

"That'll be all right," said Stoddart. "I will send it to your chambers at ten o'clock to-morrow morning, which will give you ample time to find a chauffeur and have it taken to your home in Thanet."

Alas! I never met Stoddart again and I certainly never clapped eyes on the car. Upon any occasion when my better half is desirous of proving what an unmitigated ass I am she mentions the lost motor-car.

I have been engaged in many blackmail cases, both prosecuting and defending in what is, to my mind, the most abominable offence a man can commit,



24

MR. MONTAGU WILLIAMS



## FORTY YEARS AT THE BAR

murder alone excepted, and rightly punishable, at the discretion of the Court, with penal servitude for life.

But blackmailing in the earlier days was a much more artistic operation than the brutal persecutions which have recently been carried out by miscreants who quite properly have received the severest of punishments.

To my idea, the man who blackmails another person who is quite innocent is not so dangerous a criminal as the man who blackmails another person who, in fact, has been guilty of some indiscretion. In the first place, the blackmailed person need have no fear of exposure. He can go to the police and immediately obtain the arrest of the person who is bleeding him and get him convicted; but in the latter case the victim has a dreadful horror of his indiscretions being wickedly magnified into actual misconduct, and it is to the latter class of criminal that the severest sentence is not too much.

In the "good old days," as they are termed, a subtle form of blackmail was carried out by the proprietors of so-called financial papers, who would approach their victim (probably some person about to promote a public company) with two articles already written, the one showing up the proposed company as a fraud and warning the public not to subscribe to it, and the other written with high eulogistic reference to the proposed company, advising investors that they could find no better investment.

This form of blackmail was quite common some twenty or twenty-five years ago, and in many cases completely successful.



## FORTY YEARS AT THE BAR

I prosecuted at the Guildhall and afterwards at the Old Bailey two men who were charged with conspiring to obtain moneys and shares to the amount of £16,000 by proposing to abstain from publishing a certain libel concerning one Marcus Bebro. Sir Charles Mathews, Mr. Cock, Q.C., Mr. Bodkin, and Mr. Travers Humphreys appeared for the prisoners.

The defendants were editors and proprietors of a newspaper called the *Financial Who's Who*. Bebro was a company promoter. He was interested in the promotion of a business called the "Bechuanaland Diamond Fields," with a capital of a million and a half sterling. Violent attacks upon Bebro appeared in the *Financial Who's Who*, it being stated that although a company might be presided over by honest men, when once Bebro was connected with it, it was "all over." He was described as the shadiest of the shady, and the article promised that in the next issue of the paper would be published the life and adventures of Bebro "as told by himself."

The defendants waited in their office to see if their fish would rise. They became impatient. The object of the article was, of course, to bring Bebro to his knees and to make him pay to the defendants any sum they would fix to keep his name out of the paper and not injure the company.

It was reported to Mr. Bebro that the defendants were men with plenty of money, and that there was a syndicate with £15,000 at their command for the purpose of ruining him. Two hundred thousand copies of the paper were to be translated and sent on to the Continent. He had either to "lick their shoes" or take the consequences. "You will have

## FORTY YEARS AT THE BAR

to find a large sum of money," said the conspirators. A draft agreement was prepared by which the defendants undertook to abstain from libelling Bebro or to attack any company in which he was concerned, in consideration for the sum of £1000 to be paid in cash, and shares to the value of £15,000 in the Bechuanaland Diamond Fields to be allotted to them.

The whole facts were placed before the police on the advice of Bebro's solicitor. The next issue of the paper contained no mention whatever of Bebro's name. A perfectly innocent agent had prepared a document providing for the payment of £1000 in cash and £15,000 in shares, so that the defendants had every reason to believe that their money was safe. This agreement was, however, not signed. Eventually Bebro called at the office of the defendants and was ushered into what was called "Committee Room No. 10." When Bebro spoke of the libels, the elder man said: "Libel is a strong word. Call it licence," in a light and airy sort of way. He was asked if it were true that he had agreed to abstain from publishing further libels, and he said he had, pointing out that in the last issue of the paper he had not mentioned Bebro's name.

"If you do not square me," he said, "look out for the consequences."

He was asked if he would sign a letter to this effect, but replied: "I have been too long at this game to be caught napping."

Bebro was induced to sign a cheque for £500, as the first instalment, which he immediately stopped. The police were called in and the defendants were

## FORTY YEARS AT THE BAR

given into custody, the charge being "attempting to extort money by threatening to publish or offering to abstain from publishing libellous matter."

The only humorous thing in this dreadful case was that when the warrant was executed, the younger prisoner remarked to his father: "Fader, I am struck with a flash of lightning."

His father remarked: "Never mind, Morris. Hold out a lightning conductor!"

It is unnecessary to give further details of this case excepting to mention that both prisoners were convicted at the Central Criminal Court and sentenced to imprisonment.

I could give many other instances of blackmail by threatening to publish libels concerning men about to promote companies. It would be wearisome to narrate the many cases in which I have appeared, both prosecuting and defending. I think that the prosecutions about this time had a salutary effect as well as the severe sentences themselves, because I have not read or heard of any cases of blackmail of this description for some years.

Some twenty years ago at the Lewes Assizes, before Lord Chief Justice Coleridge, I defended a man and a boy for obtaining many thousands of pounds in circumstances somewhat similar to the case of blackmail recently before the public. The victim in that case was an old gentleman who parted with some thousands of pounds. The blackmailers demanded more. The victim communicated with his solicitors to raise more money. Fortunately for him, his solicitors, an eminent London firm, asked the old gentleman what he wanted so much money for. He

## FORTY YEARS AT THE BAR

told them, and they got warrants and had the man and the boy arrested. The Lord Chief Justice sentenced the elder prisoner to twenty years' penal servitude. The younger, a catspaw of the elder, was leniently dealt with.

I have good reasons for remembering this case, because Charles Gill and I dined at the Bar Mess. We were the last two men on the Circuit in the town, and were entitled to drink as much champagne as we could put away without paying for it (the expense being covered by the guinea paid by each member of the Bar Mess to the wine butler on appearing in court). The next thing I remember was finding myself not in Lewes, but in my hotel at Brighton in bed with a severe headache.

I think that an excellent improvement of the law would be introduced by giving a discretion to the Judge, not only to sentence blackmailers to long terms of imprisonment, but also to give them a good whipping with the "cat." Men of this character dread physical pain more than anything else.

## CHAPTER XIX

**I**N my *very* early days at the Bar, when I possessed a good deal more temerity of character than I do now, I appeared in a case which created a considerable amount of public attention, inasmuch as one of the people connected with the matter was no less a person than H.R.H. the Duke of Cambridge.

Being then not quite so cautious as I am now, I appeared at Bow Street Police Court one day to ask the learned magistrate, Mr. John Bridge (afterwards Sir John), for process against the Duke on behalf of a gentleman of the Fourth Estate named George Edward Simms who, it seemed, had been more or less industriously engaged in pursuit of his duties as a reporter of the long-since defunct *Sun* at a review on the Horse Guards Parade.

Unfortunately, however, Mr. Simms made himself rather too noticeable and thereby attracted the attention of the fiery old Duke, who instructed his equerry to send Mr. Simms about his business. The venturesome Mr. Simms refused to go, whereupon the Duke promptly took the law into his own hands and pushed him back into the crowd of spectators standing around. Feeling, no doubt, that his dignity had been seriously outraged, Mr. Simms went to a solicitor, who instructed me to apply for a summons for assault against His Royal Highness.

## FORTY YEARS AT THE BAR

I was only a youngster at the time or I dare say I would not have possessed the nerve to come before the Court asking for process against a member of the Royal family. According to Mr. Simms, he was carried forward by the crowd, and then, for no reason at all, violently assaulted by the Duke. He had given no provocation whatever, and certainly had not jostled His Royal Highness as was subsequently alleged by a police inspector named Robinson, who apparently took it upon himself to administer still a little more chastisement. The police officer also accused him of being drunk, and banged his head against a stone wall with such violence that some of the crowd strongly remonstrated. No charge was made against Mr. Simms, although he, for his part, had no intention of allowing the matter to drop.

But I didn't receive much satisfaction from the learned magistrate, and from the observations he let fall I came to the conclusion that it was the exalted rank of the defendant, rather than that of any question of the rights and wrongs of the case, that induced him to refuse process. In announcing his decision, Mr. Bridge as good as informed me that if I felt dissatisfied with it there was nothing to prevent me appearing before a Divisional Court to obtain a writ of mandamus to compel him to hear the case. Good enough, I thought.

Mr. Simms, more aggrieved than ever, decided to go on with his complaint, and in due course, after the various tortuous processes of the law had been complied with, I received a brief to appear before the then Lord Chief Justice Coleridge and my esteemed friend Mr. Justice Hawkins.

## FORTY YEARS AT THE BAR

When I got up to make my application for the writ, I suggested that the Bow Street magistrate had allowed extraneous matters to enter his mind and that he had not exercised his discretion, in other words, that he had refused process simply because the proposed defendant was H.R.H. the Duke of Cambridge. Said the Lord Chief Justice :

“ Do I understand you to say, Mr. Abinger, that the learned magistrate has ruled as law that it is lawful for one of Her Majesty’s subjects to assault another ? ”

“ That is what the learned magistrate has ruled,” I replied.

Hawkins then took a hand in the proceedings by saying that a magistrate must exercise his discretion, and in order to get a mandamus I must be perfectly sure that such discretion had not been shown by Mr. Bridge. If he had heard the case and exercised his discretion upon it I could not obtain the writ I wanted.

Pretty hair-splitting, typical of Hawkins at his best. Quite obviously I had to stick to my guns to succeed, so we went at it, hammer and tongs, for two or three hours, before the Lord Chief Justice informed me that all subjects of the Queen were equal, and that a magistrate was bound to administer the law impartially. In this particular case, he added, he had not a shadow of doubt as to what might be the issue of it, but it was clear to his mind that Mr. Bridge had not exercised his discretion and therefore the rule I asked for must be granted. So far, so good.

But my temporary triumph did not, of course, exhaust the resources of the Bow Street magistrate.

## FORTY YEARS AT THE BAR

A month later—what a wonderful waste of time!—there was an appeal against the rule granted by Coleridge and Hawkins, and on this occasion I found myself against the redoubtable Harry Poland, Q.C., who appeared on behalf of Mr. Bridge. The Duke of Cambridge was also represented, Sir Charles Russell and Lionel Hart being briefed on his behalf.

The matter ended very much as might have been expected. Justices Day and Smith were of the opinion that the rule must be discharged—with costs, be it added—with the result that poor Mr. Simms got nothing but a fearfully long bill and the satisfaction of knowing that he had achieved quite a considerable amount of notoriety. However, it did him no harm in his professional capacity; for many years afterwards he was celebrated as the man to whom duty was more than any mere Duke.

On another occasion I was mixed up with what promised to be a highly sensational case which arose out of the amours of a certain European monarch, now deceased. There is no necessity for me to disclose the identity of the Royal gentleman; it will be more than sufficient for me to say that his love affairs were the talk of the world.

The story itself sounds more like a romance from the *Arabian Nights*, at any rate more in keeping with the times when kings were a law unto themselves. This particular ruler happened to be at a fashionable watering-place in Europe walking along the sea-front when he suddenly caught sight of a young and very beautiful woman.



## FORTY YEARS AT THE BAR

His Majesty needed no spur to his ardour. He immediately sent his equerry after the lady, who no doubt tactfully informed her that she had excited the admiration of the King, who would be glad of her company at dinner that evening at his chalet. Apparently the lady, like Barkis, was willin'. She was the daughter of a titled woman, but she made no fuss whatever about obeying the Royal command. She not only dined at the King's chalet that evening, but she also went away in the morning with £1000 in her pocket. Seemingly, also, she was so impressed by the generosity of her Royal acquaintance that she immediately wired to Paris, where she had an equally beautiful sister, telling her, no doubt in guarded language, to come at once to the watering-place and be introduced to the King, when no doubt the same good fortune would come her way.

But, alas, the King declined to be smitten with the sister, and there were angry words between the two women ! The one who had come from Paris said in a most spiteful manner :

“ A nice fool you have made of me. Here I have been throwing myself at that old idiot's head for nothing. I think you ought to give me half of the thousand pounds you got.”

Well, anything for peace and quietness. The lucky one parted with £500, and nothing more was heard of the matter till some years afterwards. In the meantime the unappreciated sister married a man of very high position, while the “ lucky ” one, who had not played her cards so well, got into very low water. Desperate for want of money she said to her married sister :

## FORTY YEARS AT THE BAR

"I think you ought to return me the five hundred pounds I lent you."

"Lent me!" exclaimed the other in surprise. "You didn't lend me the money. You gave it to me."

However, that explanation didn't prove satisfactory. The unmarried sister decided to bring an action to recover the money, and in due course I received a brief for the plaintiff. In all probability it would have proved a most spicy case, but on the evening before the trial a very eminent counsel (who is now dead) sent for me and asked me if I could appreciate what a terrible shock it would be for his client's husband to discover this disagreeable incident of the past in his wife's life. He begged of me to try and settle the case before it came into court.

I could fully realise the trouble bound to ensue once the story became public, and so I immediately interviewed the solicitor for the plaintiff who, after much trouble, succeeded in inducing his client to accept a sum of money in settlement. What happened to the two sisters, or if they ever spoke again, I never heard.

Now for another romance a little lower down in the social scale. Nearly forty years ago there came to London a prepossessing young Welsh girl rejoicing in the name of Miss Lottie Chettle. Her father was a hairdresser in a flourishing way of business at Swansea, and the daughter, who certainly possessed an enterprising nature, came up to London to work as a lady barber with a Mrs. Groser, in Chancery Lane. From all accounts Miss Chettle's beauty took the customers

## FORTY YEARS AT THE BAR

by storm, more particularly a gentleman who called himself A. W. Wicks.

I regret to say that Mr. Wicks found the way to the young lady's heart by posing as a member of the Bar. While he lay back in the chair being shaved by the fair Lottie he murmured that he had an income running into thousands of pounds a year, if she would only marry him she would make him happy for evermore, and so on until the poor girl grew bewildered with the dizzy prospects awaiting her. Mr. Wicks even took his comely sweetheart to what was then the star attraction of London—the fireworks at the Crystal Palace. Here, no doubt, inspired by the pyrotechnics of Messrs. Brock, he burst into poetry, a sample of which I may be permitted to quote here. Mr. Wicks deserved all he subsequently got, if a specimen of his verse is any criterion :

“Once I met in London town, totally unexpected,  
A little girl of no renown, with whom I got connected,  
She sang no song of ancient race,  
Of pride, great wealth, or glory,  
But all day long she shaved the face  
Of Liberal or Tory.”

Sad to relate, Mr. Wicks appears to have had another lady with legal claims upon him, and when it came to the question of actually performing his marriage contract he turned defaulter. Eventually there was an action for breach of promise, in which I appeared for the fair plaintiff. It took me the better part of a day to open the case and to quote the innumerable love-letters in which Mr. Wicks had not only poured out his entire soul, but also rashly



LORD COLERIDGE



## FORTY YEARS AT THE BAR

asserted that he would have no other woman for his mother-in-law but the mother of Lottie Chettle.

This particular case caused peals of laughter, but ultimately my client got a verdict for £300 and costs. But that, unfortunately, only marked the beginning of the real trouble. As Mr. Wicks refused to pay the formidable bill presented to him, his furniture was seized, whereupon there appeared on the scene the trustees of a settlement made on the defendant's wife at the time of her marriage with the fickle Mr. Wicks.

An extraordinary story then came to light. It appeared that Mrs. Wicks herself had been married twice, and for some time lived in New Zealand. In 1885 she was deserted by her husband, and in the following year, in consequence of certain information she received, she went and saw a body which she identified as that of her husband.

In the year 1890, believing herself to be a widow, she married Wicks at Port Elizabeth, South Africa, and subsequently came to England. Then, according to her version of the affair, she began to have doubts as to whether her first husband was really dead when she married Wicks in 1890. Woman-like, and having children to bring up, she grew more than a little anxious, and made further enquiries, with the result that she discovered that her first husband had died in a hospital in Melbourne in 1892. Therefore her first marriage with Wicks not only rendered her liable to prosecution for bigamy, but also automatically rendered it invalid. The difficulty was overcome by going through a fresh ceremony of

## FORTY YEARS AT THE BAR

marriage in 1893, just about the time that Wicks was involved with the lady barber.

It looked for all the world as though the second marriage had taken place for the purpose of defeating any proceedings that Miss Chettle might take, and I advised her, when the trustees of Mrs. Wicks' marriage settlement brought an action against her to recover the furniture, to fight the case.

There were all manner of complications over this affair. Wicks, it seemed, had borrowed money on the furniture, and when the moneylenders put the bailiffs in they discovered that Mrs. Wicks, under the marriage settlement deed, was the registered owner of the property. Thereupon they prosecuted Wicks and had him sent to prison for six months.

I am sorry to say that my client, the lady barber, did not succeed when her case came before Mr. Justice Kennedy in the Queen's Bench. The Judge said that the statements made by Mrs. Wicks were those of a thoroughly truthful witness and he believed that she had acted honestly throughout. Even if her husband had some fraudulent intent it would not be sufficient to deprive the woman, who had honestly entered into the bonds of matrimony, of the benefits secured to her by the settlement. Therefore, there would be judgment for the plaintiff, which meant that poor Miss Chettle got nothing.

A lawyer's life is indeed a varied one ; there is no end to the astonishing little dramas which continually intrude upon his peace of mind. I was once walking across the lobby in the Old Bailey when a solicitor came rushing up in a great hurry to know whether

## FORTY YEARS AT THE BAR

I would defend a client of his. The case, I gathered, had just been called.

"What is the charge?" I enquired, thinking it merely one of the innumerable instances of the "old lag" who decides at the last moment that he must have what is known among his fraternity as a "mouthpiece."

"Murder!" replied the solicitor, to my intense astonishment.

"Murder!" I echoed, "and you ask me to defend a man on such a charge without even having seen the brief, as well as knowing nothing about the facts."

"Never mind about that," said the solicitor. "I have only this minute been instructed myself. You can pick up the case as it goes along. Your fee will be all right. "

Thereupon, thinking a man's life might really be at stake, I literally ran into No. 1 Court, where Mr. Justice McCardie was trying the case. Fortunately for the prisoner, the Crown apparently had no intention of proceeding any further than that of proving the prisoner to be insane. A doctor from Brixton Gaol was in the witness box giving evidence that in his opinion the prisoner was not responsible for his actions. On this pronouncement, which, of course, is official, Mr. Justice McCardie speedily invited the jury to come to their verdict, which was that of guilty, but insane, the Judge imposing the customary penalty of ordering the prisoner to be detained during His Majesty's pleasure. The following morning my clerk informed me that he had received the fee which I had been promised. It amounted to the munificent sum of precisely two



## FORTY YEARS AT THE BAR

guineas, which I think must be a record—of a nature one would not desire to repeat—for defending a murderer.

I shall never forget the dismay of the Comtesse Germaine Virginal Gabrielle de Planet, a wealthy French lady who lived in London, when she discovered that her two apparently irreproachable servants, the faithful butler Jean and the admirable chef Louis, were not the simple-minded domestics she had so fondly imagined.

Punctually at nine o'clock every morning the faithful butler would bring the Comtesse her early cup of chocolate and her *petit pains et brioches*, and then bowing respectfully would ask her ladyship to give him instructions as to what food she desired for the day. At half-past one, after the Comtesse had enjoyed her perfumed bath, and was attired for the day, she would descend to the *salon* and on spotless linen she would find the most delicious morsels procurable, prepared by this treasure of a chef. After a short period for repose, her ladyship would then step into her carriage to "take the air" (as our old friend Pepys would say). Not a moment's anxiety ever crossed her mind as to the security of her property. Her valuables were all safe in the custody of the faithful Jean and the wonderful Louis. Nothing was ever locked up.

This peaceful and luxurious existence continued for a long time, and so far as I know would still be continuing but for some morbid changes which in some unaccountable way took place in the brains of Jean the butler and Louis the chef.

These changes were demonstrated in the remarkable

## FORTY YEARS AT THE BAR

manner which I am about to relate. One morning Jean the butler came into the Comtesse's bedroom, but without the usual cup of chocolate, and enquired : " Did Madame la Comtesse ring ? "

Her ladyship was half asleep at the time and did not answer. A few minutes later she heard a movement in the room and saw to her intense astonishment Louis the chef, no longer wearing his white cap but having a number of serviettes wound round his head.

Suddenly Louis jumped on his mistress's bed, seized the unfortunate Comtesse by the throat with one hand and clapped the other over her mouth. Frightened out of her life the Comtesse screamed loudly, whereupon the chef promptly placed a pillow over her mouth and pushed her face away from him, saying he did not want her to see him.

" Where is Jean ? " cried the Comtesse in a muffled voice. " You have gone mad, Louis, to be doing this."

" Keep your mouth shut," growled Louis gruffly. " If you scream it will be the worse for you."

" Jean ! Jean ! " cried the poor woman, " I am being killed. Come to me at once."

" Jean cannot help you," replied Louis. " He is downstairs tied up with rope. Give me your hands so that I may take your rings, or it will be the worse for you."

The Comtesse, terrified for her life, put forth her hands. But when the maddened chef saw that she had only her wedding-ring on he contemptuously refused to take it, and again threatened that he would kill her if she did not immediately give him her jewellery.

## FORTY YEARS AT THE BAR

She told him there was nothing of value in the room, and after a time, quietening down, he promised he would not injure her if she would give her word not to call the police. The Comtesse was only too willing to comply, and shortly afterwards the chef left the room, carefully locking the door behind him.

About an hour afterwards, during which time the Comtesse was miserably wondering what had happened and whether she would succeed in obtaining help, there came a knock at the door. It was Jean the butler, whom she thought bound and gagged like herself.

“ Well,” demanded Jean fiercely, “ are you quiet ? ”

“ What has occurred, Jean ? ” asked the Comtesse agitatedly. “ Has Louis gone ? ”

“ No,” said the butler. “ He will be going shortly and I shall go with him. We are tired of you and your temper, and we have decided that you shall pay us richly for all the insults you have heaped upon us. Do not attempt to communicate with the police or we shall come back and kill you.”

In half an hour's time the Comtesse ventured to try the door of her bedroom. It was open ! Cautiously she crept downstairs, where she discovered that her two faithful servants had disappeared, as had property which she subsequently valued at £3000.

Through the perseverance of the police Jean and Louis were ultimately caught, and in due course committed for trial at the Old Bailey on charges of robbery with violence. I appeared for the prosecution. The jury convicted both of them, with the result that they received what I thought to be the extremely

## FORTY YEARS AT THE BAR

lenient sentence of twelve months' hard labour and recommended for deportation.

Whether the prison authorities employed Louis to supervise the culinary arrangements in the gaol where he served his sentence I do not know, though I have no doubt that with his great skill he could have converted even a dish of skilly into a tasty and delicious meal for his companions in misfortune.

## CHAPTER XX

IT has always been our great boast that the law of England is no respecter of persons. Whether the litigant be a peer or a costermonger, equal justice is meted out, and this has been my experience during the whole course of my career at the Bar. There is, however, one serious exception to this salutary rule. If a prisoner or a defendant be convicted at Assizes, at the Central Criminal Court, at County or Borough Sessions, he has an absolute right to appeal to the Court of Criminal Appeal, which is usually presided over by the Lord Chief Justice of England with two or more Judges. The convicted person is given a printed form of Notice of Appeal, and after setting forth formal matters, such as the offence in respect of which he was convicted, the date of such conviction, the place where he was so convicted, and the nature of the sentence passed upon him, he sets out the *grounds* of his appeal.

This form is sometimes settled by counsel or the solicitor, in which case it must be signed by the appellant himself, but the convicted person may, if he chooses, fill in the form himself, which is quite a simple matter. He hands it to the Governor of the prison where he is detained, whose duty it is to forward it immediately to the Criminal Appeal Court offices in the Law Courts. In a very short time the case comes into the list, and the Judges

## FORTY YEARS AT THE BAR

decide whether leave to appeal should be granted or not.

There is one exception to this practice, namely, a conviction for murder. An application for leave to appeal against a conviction of murder is always treated as the *appeal itself*. The appeal lies both against conviction and sentence.

So here we have this striking proof of the rule "one law for the rich and poor alike." A poor man can thus appeal, by merely filling in a simple form, to this great Court of Appeal without being called upon to pay a farthing or employ counsel or solicitor.

But if a man be convicted by an inferior court, such as a police court presided over by a stipendiary magistrate, or a Petty Sessional Court presided over by Justices of the Peace, *no* appeal lies unless the convicted person *finds a bond or surety, generally for £50*. This sum is to secure the payment of the costs of the appeal if unsuccessful, and these costs must be paid by the surety if called upon to do so.

Now, the twenty-fifth section of the Criminal Justice Act 1925 provides that a convicted person is entitled to appeal *ex debito justitiae* (as of right) against *all* convictions and sentences pronounced at a police court or a Petty Sessional Court. This apparently beneficial provision so far as a poor man is concerned is, for all practical purposes, a complete dead letter, and might just as well have been left out of the Statute. How is a bricklayer, a pedlar, or a poor working man to find someone who will go surety for him for £50? Of course he cannot, and thus a poor man cannot appeal at all.

## FORTY YEARS AT THE BAR

In addition to this burden :

- (1) A petition addressed to the Quarter Sessions has to be prepared.
- (2) A notice of Appeal settled—setting out the grounds, and
- (3) Statement of the facts,

all to be delivered within seven days to the Petty Sessional Court and to the prosecution ! These documents are highly technical, and are quite beyond the capacity of anyone, save a trained lawyer, to prepare.

So this glaring anomaly stares one in the face, namely : In the case of a prosecution, say at the Central Criminal Court presided over by the Lord Chief Justice himself or any other of His Majesty's Judges, or by a Recorder of Borough Sessions, or the Chairman of County or Quarter Sessions, a convicted person gets to the Court of Criminal Appeal as a matter of right and without being called upon to pay anything. Nor does he have to do anything except fill in the simple form before mentioned, whereas to review the decision of inferior courts such as Petty Sessions presided over by Justices of the Peace, or a police magistrate, the above mentioned oppressive, and in most cases impossible, steps must be taken as a condition precedent to the appeal being heard at all.

The sooner appeals from Petty Sessional Courts or police magistrates are brought into line with appeals from the Courts of Assize, the Central Criminal Court, and Quarter Sessions, the better for the community and the rights of the poorest man in the country. No doubt this course will throw more

## FORTY YEARS AT THE BAR

work on Recorders, but from what I know of this body of gentlemen they will cheerfully perform such extra duty without throwing any further expense on the Exchequer.

Some learned magistrates and some Justices of the Peace, according to their views—or the views of their clerks—think the best deterrent to crime is to send a man or a woman to prison, even for a first offence, a course rarely approved by a higher court, who make full use of the Probation of Offenders Act, which in my long experience most frequently leads to the complete reform of the convicted person.

There is unfortunately no doubt that a great many people are wrongfully convicted, but have to suffer the penalty of not being able to prosecute an appeal before a Quarter Sessions. While I do not propose to enter into the merits of the recent prosecutions for alleged street offences which involved Mr. Frederick Mead, the Marlborough Street magistrate, and also Sir Chartres Biron, the Chief Magistrate of Bow Street, in such acute controversy, I think I am justified in saying that their decisions on the cases in question would never have been upset if the people most intimately concerned in the matter had not been possessed of the means to appeal at the London Sessions. How different it is with a man or a woman convicted at the Old Bailey! They have an unalterable right of appeal, while anyone unfortunate enough to be convicted at a police court on the uncorroborated testimony of a young police-constable can do nothing unless he or she is able to lodge security, or find a surety, for the estimated cost of an appeal to Quarter Sessions.



## FORTY YEARS AT THE BAR

If the Committee of Inquiry sitting at the time this book was written does nothing else than have this anomalous condition of affairs rectified, it will have more than justified its appointment, though I am willing to admit the probability of such courts of appeal being faced with a great deal of extra work. If, however, the conditions governing such rights of appeal are carefully framed, there is no reason why they should be seriously abused. At any rate, the experiment is well worth trying, if only to allay the considerable uneasiness in the public mind which naturally arises when a stipendiary magistrate's convictions are quashed.

It is difficult to place the blame for such possible errors of justice on the shoulders of the magistrates. They could, it is true, decide to dismiss every charge of a street offence where there is no corroborative evidence, and in doing so would practically render it impossible for the police to take into custody anybody who had committed a breach of moral behaviour.

That, of course, would create a ridiculous state of affairs, because in nine cases out of ten onlookers are naturally reluctant to be dragged into such matters. The notoriety which would be inevitable, added to the unwillingness of subjecting themselves to cross-examination, are deterrents too strong to be lightly thrown aside. I, for one, would be very surprised if the Committee succeed in altering the present state of affairs. After all, public outcries of this sort have periodically occurred many times, and I have no doubt they will continue to do so long after I am dead and gone.

Times innumerable have I found myself in the face

## FORTY YEARS AT THE BAR

of great dilemmas. For instance, what is a counsel to do if he knows his client is guilty? I am fully aware that a defending barrister is professionally bound to believe in the innocence of his client, but of course it would be nothing but the sheerest humbug to pretend that he does not very often know otherwise.

Many years ago I was defending the director of a public company for forging a bill of exchange. Mr. Bodkin (now Sir Archibald Bodkin) appeared for the prosecution. There were two indictments which in those days had to be tried separately—both charging the prisoner with forgery. The jury on the trial of the first indictment returned a verdict “Not guilty.”

The prosecution decided to proceed with the second indictment. My brief dealt fully with the first and more serious charge, but I found I was so imperfectly instructed on the second indictment that I went to the dock and asked the prisoner to give me more particulars relating to this charge. He whispered to me :

“I committed this forgery!”

What was I to do? I had no one to advise me, so I decided to adopt the following course: I cross-examined the witness for the prosecution in exactly the same manner as I should have done had not the prisoner confessed the forgery to me, it being obviously my duty to see that the case was legally established against my client in the dock.

But when it came to my turn to address the jury I confined myself to bowing to both the Judge and the jury and not addressing them at all, much to the astonishment of everybody in court. The prisoner was convicted on this indictment, and I can only say

## FORTY YEARS AT THE BAR

that I could see no other course than the one I had adopted.

Another experience was before that brilliant and vivacious Judge whose witticisms delight all those who have the privilege of appearing before him—I am referring to His Honour Judge Cluer. It was an action against the London General Omnibus Company, who were represented by Harold Smith, afterwards Sir Harold Smith, brother of Lord Birkenhead, whose premature death was so greatly deplored.

The case was fixed at two o'clock. On arriving at the court a gentleman stopped me just as I was entering.

“Are you the counsel for the plaintiff?” he enquired.

“Yes,” I said, “who are you?”

“I am the plaintiff’s doctor,” he replied.

“Well,” said I, “what is it?”

“If you put me in the witness box to prove that your client was injured by the accident,” said the doctor, “I shall tell the jury that he is a humbug and a malingerer and received no injury at all.”

This was a thunderbolt. What was I to do? How could I conduct a case which I knew to be a fraud? I made up my mind rapidly and asked to see the Judge, who was having his luncheon. I told him what had happened and asked him to advise me.

“Open your case,” he said. “Do not describe the injuries, and immediately put the doctor in the witness box.”

I carried out the learned Judge’s suggestions. After opening the case very briefly I called the doctor into the witness box.

## FORTY YEARS AT THE BAR

“ Now, Doctor,” said I, “ kindly tell the Judge and jury the nature of the plaintiff’s injuries.”

“ There are none,” he replied.

“ Mr. Abinger,” remarked His Honour, “ how can you go on with this case in the face of such a statement as that ? ”

“ Well,” I said, “ if your Honour thinks that I should not, why, there is an end to it.”

The jury was directed by the Judge to record a verdict for the defendant.

It might be as well to place on record some of the witticisms of His Honour Judge Cluer, for they are too good to be forgotten.

I was cross-examining a witness before him. His Honour, in a very fierce voice, said to the witness :

“ Just you look round the court. You will notice there are seven doors to it. Now, if you go on lying like this, I will have you cut in seven pieces and each piece shall be carried through a separate door ! ”

The unfortunate witness believing, I suppose, the Judge intended to carry out this blood-curdling threat, turned a pea-green colour and abruptly left the box !

On another occasion this learned Judge, believing that a witness was lying, said to him :

“ You be careful. You came here to speak the truth.”

“ Vat ? ” replied the witness. “ I came to speak de trut ! Vy, I came here to vin de case ! ”

I need not add that he did not !

This learned Judge was originally appointed a Metropolitan Police magistrate, but finding, I assume, that there was little scope for his great legal learning,

## FORTY YEARS AT THE BAR

he resigned that position, and was immediately given a seat on the County Court Bench. Judge Cluer is as hale and hearty now, well over seventy years of age as he is, as I remember him forty years ago. Although some people do not like his mannerisms (I enjoy them) his two courts are about the busiest in London, litigants knowing they will get a good hearing, and justice.

I have had from time to time an insight into the confabulations which take place in the privacy of the jury box. In a case where a man had been twice convicted of felony and had served two severe terms of penal servitude, which fact had been unconsciously got out of the prisoner, who defended himself, one of the jurymen, who told me this story, said :

“ Why do you wish to convict him ? ”

“ Why,” said the other jurymen, “ he is an old convict, just the sort of man to commit the offence he is charged with.”

“ Well,” said the foreman, “ he has been severely punished. What do you say to giving him another chance ? ”

This strange course was adopted and the jury returned a verdict of “ Not guilty.”

In the old days, in criminal cases, juries were locked up without food or light until they had returned a verdict, and hunger not infrequently caused them to agree quickly. This strange method of getting an agreement has long since been abandoned, and if a jury are hopelessly divided and will not agree they are discharged.

Miscarriages of justice are happily very rare in this country. The only instance in England I can call to

## FORTY YEARS AT THE BAR

mind during my forty years at the Bar, where the convicted person was *entirely* disconnected with the crime, was the famous case of Adolf Beck. But there are many well-authenticated cases of prisoners being convicted and afterwards found to be completely innocent.

One of the most remarkable was in the year 1869, at the Imperial Court of Nancy, in France, when a most extraordinary case of judicial error was brought to light. Adèle Bernard, a young and beautiful woman, twenty-two years of age, was charged with infanticide. The prosecution alleged that in the month of October 1868 she clandestinely gave birth to a child, and, in order to dispose of its remains, she threw the child's body in a pigsty where it was quickly devoured by the pigs. The accused woman not only made a complete confession before the *juge d'instruction*, equivalent in our country to a Petty Sessional Court or a stipendiary magistrate, but afterwards repeated it in open court at the Assizes. A midwife and the parochial surgeon were called by the prosecution, and both proved that they had made a careful examination of the prisoner *immediately after her arrest* and found traces of a recent delivery.

The prosecution, however, failed to prove that the child had ever had a separate existence, and the woman was accordingly convicted of the minor offence of the concealment of the birth of the child and the court sentenced her to six months' imprisonment. About one month later, namely, on December 24, 1868, she was, whilst serving her sentence in prison, delivered of a fine healthy child, perfectly formed and born in altogether normal circumstances.

## FORTY YEARS AT THE BAR

The time for her appeal against a sentence which was manifestly unjust had expired, but the Public Prosecutor lodged an appeal, praying at the same time for an extension of the period.

The case came before the Court of Appeal. Adèle Bernard was interrogated by the President himself, when she told the following remarkable story :

She had been induced by her mother and the midwife to make a false confession. They had both told her that if she confessed to killing her infant child she would get off lightly, but if she persisted in denying the accusation she would be sentenced to fifteen or twenty years' imprisonment with hard labour ! Some very shadowy evidence was given in the Court of Appeal to show the possibility of a superfetation. The Court, however, rejected this hypothesis and held that Adèle Bernard had been induced by intimidation to make a confession for which there was no foundation, and ordered her immediate release.

*Humanum est errare !* Could any rational person in the face of this evidence, coupled with the prisoner's confession, have doubted her guilt ? This case will demonstrate how meticulously careful the evidence for the prosecution should be scanned, as well as any avenue from which the real truth might possibly be extracted.

# INDEX

## A

Abinger, Edward; birth of (1859), 7; change of surname, 8, 17; Jewish school, 10; Paris, 11; Jena, University of, 12; joins Inner Temple, 14; Middlesex sessions, member of, 16; "devil-ling," 20; defence of Stinie Morrison, 26-73; defence of Charles Wells, 88-96; Benjamin Binns, 96-98; Muswell Hill murder, 115-129; Laermann case, 148-152; Mrs. Large, 166-168; Haymarket mystery, 211-219  
 Abrahams, Michael, 153, 160  
 Abrahams, S., 7  
 Abrahams, S. B., 7  
 Alverstone, Lord, 244-5, 251  
*Answers to Correspondents*, 15  
 Appeals, system of, 272-277  
 Asquith, Mr. H. (Lord Oxford), 86  
 Avory, Mr. Justice, 56, 125, 219-222, 243-244

## B

B—— family, case of the, 205-210

Beaconsfield, Earl of, 190  
 Bennet, Sir Henry Curtis, K.C., 209  
 Benson, Harry (Turf frauds), 153-164  
 Beresford, Lord Charles, 195  
 Bernard, Adèle, case of, 281-282  
 Bigamy, Bedfordshire case of, 201-205  
 Bigham, Mr. Justice. *See* Lord Mersey  
 Binns, Benjamin, case of, 96-98  
 Birkenhead, Earl of, 132, 134-136  
 Biron, Sir Chartres, 275  
 Blackmail, cases of, 252-257  
 Bodkin, Sir Archibald, 226, 237-239, 254, 277  
 Bowen, Lord Justice, 109  
 Boxing, cases concerned with, 196-198  
 Brampton, Lord, 23, 79; case of Charles Wells, 87-95, 101, 103, 110, 114, 126, 169, 173; case of Mr. Simms and H.R.H. the Duke of Cambridge, 259-261  
 Brogden, Detective-Sergeant, 42, 71  
 Bullen, Tom (counsel), 101



# INDEX

## C

Cambridge, H.R.H. Duke of, 258-261  
 Campbell, W. B. (counsel), 175  
 Canterbury, Archbishop of (Cosmo Lang), 14  
 Carlton Club, 81  
 Carson, Lord, 76, 80-84, 139, 200  
 Carson, Lady, 82  
 Castlereagh, Lord, 81  
 Castling, Alfred (cab-driver), 54  
 Cave, Viscount, 27, 113, 241  
 Chambers, Sir Thomas, 19, 143  
 Chamberlain, Joseph, 190  
 Charley, Sir William, 20  
 Chettle, Miss Lottie, case of, 263-266  
 Chetty, Lord Justice, 165  
 Cheylesmore, Lord, 226  
 Churchill, Lord Randolph, 191  
 Churchill, Mr. Winston, 26, 34, 65, 192  
 Clarke, Sir Edward, 23, 78, 137, 223  
 Cluer, Judge, 278-280  
*Coal Hole* (court-martial), 224-227  
 Cock, Alfred, Q.C., 168-169, 254  
 Coleridge, Lord Chief Justice, 259-261  
 Collins, Lord, 233  
 Criminal Evidence Act, 1898, 60, 70  
 Criminal Justice Act, 273

## D

Darling, Lord, case of Stinie Morrison, 38-56, 99, 106 ;  
*Scintilla Puris*, 107, 221-222

Deitch, Mrs. Nellie (witness), 47  
 Desart, Earl of, 237, 242  
 Dickens, Sir Henry, 140, 209, 239  
 Druscovitch, Inspector, 155-160

## E

Eady, Swinfen (Lord Swinfen), 165  
 Edlin, Sir Peter, 16, 18  
 Esham (German witness), 90-91  
 Esher, Lord, 111-113

## F

Felstead, Mr. S. T., 42  
 Field, Mr. Justice, 101  
 Flitterman, Eva (witness), 44, 47, 51, 71  
 Fowler, Henry, 115-131  
 French, language, trial conducted in, 13  
 Freyberger, Dr., 44, 51  
 Fulton, Sir Forrest, 18, 21, 98, 105

## G

Gale, Annie (Whitechapel murders), 129  
 Gatti, Brothers, the, cases of, 248-250  
 Geoghegan, Gerald, 18, 21, 100, 196  
 George, Lloyd, 139, 240

# INDEX

German language, trial conducted in, 13  
 Giffard, Sir Hardinge. *See* Lord Halsbury  
 Gill, Sir Charles, 16, 18, 20-22, 76, 85, 88-95, 142-145, 150, 200, 251, 257  
 Gladstone, 84, 190  
 Glyn, Lewis (counsel), 102  
 de Goncourt, Comtesse, 155-160  
 Grandt, Mrs. Hermione, case of, 147-152  
 Grantham, Mr. Justice, 19, 99, 148-152, 171  
 Greaves, George (constable), 32-36, 71  
 de Grey, Edward (magistrate), 45

## H

Hall, Sir Edward Marshall, 8, 18, 41, 137; break with his wife, 145-152; 239  
 Hall, Sir Charles, 103  
 Halsbury, Earl of, 160  
 Hannen, Lord, 79  
 Harcourt, Sir William, 195  
 Hardy, Lord, 233  
 Harmsworth, Alfred (Lord Northcliffe), 14-15  
 Hawkins, Sir Henry. *See* Lord Brampton.  
 Hayman, Edward (cab-driver), 52  
 Haymarket Mystery, 211-219  
 Henry, Sir Edward, 33  
 Humphreys, Travers, 18, 254  
 Hume-Williams, Sir Ellis, 76

## I

Inderwick, Mr., 75  
 Ingram, Sir William, 15  
*Illustrated London News*, 15  
 Isaacs, Sir Rufus. *See* Lord Reading

## K

Kemp, Mr., 76  
 Kennedy, Mr. Justice, 266  
 Kerr, Commissioner, 20  
 Kershaw, Sir Leonard, 220  
 King, Joe, case of, 99  
 Kurr, William, case of, 154-163

## L

Labori, Maître, 235-236  
 Laermann, Albert, case of, 148-152  
 Lawrence, Mr. J., 10  
 Lawrie, Allan, 246  
 Levy, John Goodman, 129  
 Lincoln Aerodrome, court-martial at, 227-230  
 Lockwood, Sir Frank, 79, 104, 166  
 Londonderry, Lord, 81  
 Long, Viscount, 230  
 Loreburn, Lord, 183  
 Lowe, Mr. Justice, 102

## M

MacGregor, Mr. A. D. A. (counsel), 105

# INDEX

- Macnaghten, Sir Melville, 34, 39  
 McCardie, Mr. Justice, 267  
 Malcolm, Lieutenant, trial of, 133-134  
 Marshall, Chief-Inspector, 122  
*Mary Beatrice*, 179  
 Masterman, the Rt. Hon. C. F. G., 41  
 Mathews, Sir Charles, 18, 21, 45, 46, 142, 148, 150, 212, 237, 239, 242, 254  
 Maybrick, Mrs., 70, 75  
 Meiklejohn, Inspector, 155-160  
 Mersey, Lord, 137  
 Milsom, Albert, case of, the, 115-129  
 Minty, Joel (waiter), 41  
 Morrison, Stinie, trial of, the, 26-73, 130  
 Muir, Sir R. D., 18, 21, 27-56, 95, 137, 196, 250  
 Murphy, Mr. J. O. (counsel), 105  
 Muswell Hill murder, the, 115-131
- N
- Newnes, Sir George, 15  
 North, Colonel, 192-194  
 North, Mr. Justice, 232
- O
- O'Connell, Daniel (counsel), 176
- P
- Peace, Charlie, 104  
 Pembroke, Earl of, 232  
 de Planet, Comtesse, case of, 268-271  
 Poland, Sir Harry Bodkin, 21-22, 212-218, 223  
 de Ponthieu, Lieutenant, case of, 147-152
- R
- Reading, Lord, 10, 22, 32, 37, 59, 76, 106, 132, 136, 200-222  
 Reid, Sir Robert. *See* Lord Loreburn  
 Rentoul, Judge, 245  
 Robinson, Alfred (solicitor), 65  
 Russell, Lord, 70, 74-78, 99, 105, 142, 174, 245, 261
- S
- S——, Mrs. (witness), 67  
 Salisbury, Lord, 81, 190  
 Scrutton, Lord Justice, 22  
 Seddon Poisoning Case, 138  
 Simon, Sir John, 41, 132-134  
 Smith, Henry (Muswell Lodge), 118  
 Smith, Sir Harold, 278  
*s.s. Stella*, wreck of the, 181-182  
 Stephen, Mr. Justice Fitz-James, 13, 75, 217  
 Stephenson, Sir Augustus, 237, 242  
 Stephenson, Sir Guy, 88, 238, 242  
 Stoddart, *Rex v.*, 250-252

# INDEX

## T

Troup, Sir Edward, 66, 68  
Turrell, Mr. H. J., 14

## V

*Vanity Fair*, 144, 169

## W

Wales, Prince of (Edward VII),  
84

Walton, Lawson, 137  
Ward, Chief-Inspector, 55, 68  
Wells, Charles, trial of, 88-96  
Wensley, Inspector, 45, 55  
Wilde, Oscar, 80, 141  
Wilkinson *v.* Downton, 109-  
110  
William, Montagu (counsel),  
21, 245-246  
Willis, W., Q.C., 135  
Woodfall, Mr. (counsel), 115,  
129  
Wright, Mr. Justice R. S., 101.  
118  
Wright, Whitaker 138, 193







